

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-008284
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 3, 2014
County: Ionia

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 3, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly determine the Claimant's monthly Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant receives monthly child support income in the gross monthly amount of \$ [REDACTED].
3. The Claimant's daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
4. On July 8, 2014, the Department approved the Claimant for Food Assistance Program (FAP) benefits in the monthly amount of \$ [REDACTED].
5. On August 8, 2014, the Department received verification of the Claimant's monthly shelter expenses.
6. On August 11, 2014, the Department approved the Claimant for Food Assistance Program (FAP) benefits in the monthly amount of \$ [REDACTED].

7. On August 11, 2014, the Department received the Claimant's request for a hearing, protesting the amount of her Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Food Assistance Program (FAP) group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

Retirement, Survivors, and Disability Insurance (RSDI) is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income. Department of Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2014), p 28

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Income paid to an individual acting as a representative for another individual is not the representative's income. The income is the other individual's income. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014), pp 4-6.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of two. The Claimant receives monthly child support income in the gross monthly amount of \$[REDACTED]. The Claimant's daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED]. The Claimant's adjusted gross income of \$[REDACTED] was determined by subtracting the \$[REDACTED] standard deduction from the total monthly income. The Claimant's only verified shelter expense was for telephone service. Since the Claimant's shelter expenses were less than 50% of her adjusted gross income, the Claimant was not entitled to a deduction from income for her shelter expenses.

If Food Assistance Program (FAP) recipient fails to verify a reported change in shelter expenses, the Department will remove the old expense until the new expense is verified. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 14.

With no excess shelter deduction, the Claimant's net income is the same as her adjusted gross income. A group of two with a monthly net income of \$[REDACTED] is entitled to a \$[REDACTED] monthly Food Assistance Program (FAP) allotment.

On August 8, 2014, the Claimant provided verification of a \$[REDACTED] monthly shelter expenses, and a separate obligation for heat and utilities. The Claimant's income remained the same, but the Claimant became eligible for a \$[REDACTED] excess shelter deduction, which was determined by adding her \$[REDACTED] shelter expenses to the \$[REDACTED] standard heat and utility deduction, and subtracting 50% of her adjusted gross income.

The Claimant's net income of \$[REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A group of two with a net income of \$[REDACTED] is entitled to a \$[REDACTED] monthly Food Assistance Program (FAP) allotment.

The Claimant argued that the Department has improperly determined her benefit group's gross countable income. The Claimant argued that her benefit group does not receive Retirement, Survivors, and Disability Insurance (RSDI) benefits and that these funds should not be attributed to the benefit group.

The Claimant testified and provided documentation of a child support order issued by the 8th Circuit Court of Ionia County that assigns the Retirement, Survivors, and Disability Insurance (RSDI) income to the daughter's father, who is not a member of the benefit group.

The Claimant's daughter is a mandatory member of her Food Assistance Program (FAP) benefit group. Department policy includes Retirement, Survivors, and Disability Insurance (RSDI) income as countable income, and as a mandatory member of the benefit group, the daughter's RSDI benefits are countable towards the group's benefits. Department policy specifies that income received by a representative is not the representative's income, but is the grantee's income.


Department policy specifies that gross income may be more money than the person actually receives. This Administrative Law Judge finds that the child support court order is essentially a garnishment of the daughter's Retirement, Survivors, and Disability Insurance (RSDI) benefits and does not affect her countable gross income.

This Administrative Law Judge finds that the Claimant's daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Retirement, Survivors, and Disability Insurance (RSDI) granted to the Claimant's daughter by the Social Security Administration (SSA) is countable gross income towards the Claimant's Food Assistance Program (FAP) benefit group.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/8/2014**

Date Mailed: **9/8/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

cc:

