

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

IN THE MATTER OF:

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Reg. No.: 15-012653
Issue No.: 1000 3001
Case No.: ████████████████████
Hearing Date: August 27, 2015
County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 27, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ████████████████████, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly counted Claimant's daughter's employment income in determining Claimant's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly counted Retirement, Survivor, and Disability Insurance (RSDI) income in determining Claimant's Food Assistance Program (FAP) eligibility for July 2015.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. On June 9, 2015, Claimant applied for Family Independence Program (FIP) benefits.
3. On an unspecified date, Claimant and other members of his household became eligible for Retirement, Survivor, Disability Insurance (RSDI), effective July 2015, totaling ████████████████████ h.

4. On June 11, 2015, MDHHS denied Claimant's FIP application due to excess income and mailed Claimant a corresponding Notice of Case Action (Exhibits 1-5).
5. On June 11, 2015, MDHHS determined Claimant to be eligible for [REDACTED] in [REDACTED] benefits, effective July 2015, in part, based on [REDACTED] employment income and [REDACTED].
6. As of July 2015, Claimant's daughter was a [REDACTED] with employment earnings of [REDACTED].
7. Claimant's household began receiving RSDI benefits in August 2015.
8. On July 9, 2015, Claimant requested a hearing to dispute the denial of FIP benefits and the determination of FAP benefits, effective July 2015.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute the denial of a FIP application. It was not disputed that MDHHS denied Claimant's FIP application due to excess income.

During the hearing, Claimant testified that he accepted the denial of his FIP application as correct and that he no longer wished to dispute the application denial. Claimant's testimony amounted to a partial withdrawal of his hearing request. MDHHS had no objections to Claimant's the withdrawal. Claimant's hearing request will be dismissed concerning FIP eligibility.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a determination of FAP eligibility. Claimant's hearing request did not specify the month of FAP eligibility he disputed. Claimant testified that he intended to dispute his FAP eligibility, effective July 2015, the month when MDHHS first determined Claimant to be eligible for [REDACTED].

FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. The only disputed budget factor was income.

MDHHS budgeted [REDACTED] in employment income for Claimant's [REDACTED]. Claimant contended that MDHHS should not have counted the income of a minor.

For all types of assistance, MDHHS disregards student earnings. Bridges (the MDHHS database) disregards the earnings of an individual who is all of the following: under age 18; attending elementary, middle or high school including attending classes to obtain a GED; and living with someone who provides care or supervision. BEM 502 (July 2014), p. 2.

It was not disputed that Claimant's daughter was a recent high school graduate; presumably, her graduation occurred in June 2015. Thus, as of July 2015, Claimant's daughter no longer qualified as a student whose earnings were disregarded. It is found that MDHHS properly included Claimant's daughter's earnings.

MDHHS verified Claimant's daughter's earnings from The Work Number (see Exhibits 6-8). MDHHS factored weekly gross pays of [REDACTED] on May 12, 2015, [REDACTED] on May 26, 2015, [REDACTED] on May 26, 2015, and [REDACTED] on June 2, 2015.

[MDHHS is] to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505 (July 2014), p. 7. [MDHHS is to] multiply amounts received every week by 4.3. *Id.*, p. 8.

Multiplying Claimant's [REDACTED] average weekly income by 4.3 results in a converted monthly income of \$ [REDACTED] (dropping cents), the same amount calculated by MDHHS. It is found that MDHHS properly factored Claimant's daughter's income.

Claimant also contended that MDHHS improperly included RSDI benefits in his July 2015 FAP eligibility determination. Claimant testimony conceded that RSDI income was properly counted in August 2015.

It was not disputed that Claimant and other members of his household recently became eligible to receive RSDI benefits. The total amount of benefits [REDACTED] was not disputed. The date of first payment was disputed.

MDHHS contended Claimant and his children began receiving RSDI in July 2015. MDHHS presented SOLQs (Exhibits 9-23) for each of the family members to support the contention. Each SOLQ listed a "Date of Current Entitlement", "Date of Initial Entitlement", and "Monthly Benefit Credited Date" as July 1, 2015. This evidence suggested that MDHHS properly counted RSDI beginning July 2015.

Claimant contended that his household was scheduled to receive RSDI benefits beginning in August 2015. Claimant presented no documentary evidence to support his claim. Fortunately for Claimant, other evidence was considered.

During the hearing, the MDHHS website was accessed. The website contains an SOLQ reference guide at http://www.mfia.state.mi.us/SIScreens/nes_SG/WebHelp/SOLQ_Report_Field_Reference_Guide_08022013_replacing_SOLQ_Job_Aid_Process_08062013.pdf. The SOLQ reference guide from the MDHHS website is deemed to be a reliable source of explanation for SOLQ fields.

The reference guide states that monthly benefits (such as RSDI) are paid in the month after the date listed in Monthly Benefit Credited Date. Based on a Monthly Benefit Credited Date of July 1, 2015, Claimant would not have received payment until August 2015. It is found that Claimant did not receive RSDI benefits in July 2015. Accordingly, MDHHS erred by factoring RSDI in Claimant's FAP determination for July 2015.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant withdrew his dispute concerning the denial of a FIP application dated June 9, 2015. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined and counted Claimant's daughter's employment income in determining Claimant's FAP eligibility, effective July 2015. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Claimant's FAP eligibility for July 2015. It is ordered that MDHHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility for July 2015 subject to the finding that Claimant's household did not receive RSDI income for July 2015; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/28/2015**

Date Mailed: **8/28/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]