

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-015095
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 01, 2015
County: GENESEE-DISTRICT 6
(CLIO RD)

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, telephone hearing was held on October 01, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's Food Assistance Program (FAP) eligibility?

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. On July 9, 2014, the Department processed the Claimant's Redetermination (DHS-1010).
3. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].
4. The Claimant receives monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED].
5. The Claimant's son receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].

6. The Claimant's son receives monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$█.
7. The benefit group receives monthly child support income in the gross monthly amount of \$█.
8. The Claimant's benefit group has monthly housing expenses of \$█, and has an obligation to pay for non-heat electricity and telephone expenses separately from housing costs.
9. On July 9, 2015, the Department notified the Claimant that she was approved for Food Assistance Program (FAP) with a \$█ monthly allotment as of September 1, 2015.
10. On August 4, 2015, the Department received the Claimant's request for a hearing protesting the amount of her Food Assistance Program (FAP) benefits.
11. On August 19, 2014, the Department notified the Claimant that it would reduce her monthly Food Assistance Program (FAP) allotment to \$█ as of September 1, 2015.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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).

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. Common representatives include:

- Legal guardians.
- Court-appointed conservators.
- Minor children's parents.
- Representative payees.
- Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2015), pp 6-7.

The Department will exclude a fee withheld by an organization authorized by the Social Security Administration to deduct a fee for acting as a representative payee from gross Supplemental Security Income (SSI) benefits. Department of Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2015), p 32.

On July 9, 2015, the Claimant was an ongoing FAP recipient when the Department examined her eligibility to receive continuing benefits. The Claimant and her son each receive monthly Supplemental Security Income (SSI) in the gross amount 733 and State Supplemental Security Income (SSP) in the gross monthly amount of \$█. SSP benefits are received quarterly and the Department determined their monthly benefits by dividing their quarterly benefits by 3. The group receives countable child support income in the monthly amount of \$█, which was determined by taking the average of the amount received over the previous three months. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2105), pp 3-4. Child support income was not disputed during the hearing. The Claimant's adjusted gross income of \$█ was determined by subtracting the \$█ standard deduction from her benefit group's total gross monthly income. No evidence was presented on the record that anyone in the group reported allowable medical or child care expenses to the Department. The Claimant has a \$█ monthly housing expense that was verified from a copy of the lease she submitted to the Department and includes gas, water, sewer, and trash expenses. The Claimant is obligated to pay for non-heat electricity and telephone expenses separate from her housing expense. The Claimant is entitled to an excess shelter deduction of \$█, which was determined by adding her month \$█ housing expense to the \$█ standard non-heat electricity deduction and the \$█ standard telephone expense deduction, then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$ [REDACTED] was determined by subtracting her excess shelter deduction from her gross monthly income. A group of two with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2014), p 16.

The Claimant argued that the amount of income the group receives from the Social Security Administration is not being properly budgeted by the Department. The Claimant testified that her son's benefits are sent to a representative payee. The Claimant testified that the full benefit amount is not available to them and that the representative payee receives a fee that is deducted from the gross SSI benefit amount.

This Administrative Law Judge finds that the Department is properly counting the gross benefit amount as required by BEM 500 despite the fact that a representative payee received the money because the funds remain the grantee's income and are countable towards his benefit group.

This Administrative Law Judge finds that the Claimant was unsure of the exact amount of the fee taken out of her son's benefits by the payee. While this fee may be excludable under BEM 503, the Claimant failed to establish that she had ever reported or verified the amount of this fee to the Department.

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 the Claimant's eligibility for Food Assistance Program (FAP) benefits as of September 1, 2015.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/2/2015**

Date Mailed: **10/2/2015**

KS [REDACTED]

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 48909-8139

cc:

