

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

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-017337  
Issue No.: 3001  
Agency Case No.: [REDACTED]  
Hearing Date: November 10, 2015  
County: INGHAM

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

**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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself, her Social Security Administration payee [REDACTED] and [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED].

**ISSUE**

Did the Department properly deny Claimant's August 26, 2015 Food Assistance Program (FAP) application?

**FINDINGS OF FACT**

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

1. On April 22, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated her Food Assistance Program (FAP) was closed beginning June 1, 2015.
2. On August 26, 2015, Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant's benefit group consists of herself and her three minor children. All four group member receive Social Security Administration benefit.
3. On August 27, 2015, Claimant was sent a Notice of Case Action (DHHS-1605) which stated her application was denied due to excess income.

4. On September 15, 2015, Claimant submitted a hearing request and identified S. Clark as an authorized hearing representative.
5. On August 28, 2015, Claimant submitted updated shelter expense verification.
6. On September 29, 2015, S. Clark submitted a letter to the Department.
7. On September 29, 2015, the Department updated Claimant's shelter expense and reran her Food Assistance Program (FAP) financial eligibility budget. Claimant was sent another Notice of Case Action (DHHS-1605) which stated her August 26, 2015 application was denied due to excess income.

### **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 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. The Department (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.

During this hearing Claimant sought to have the closure of her Food Assistance Program (FAP) on June 1, 2015 reviewed. Claimant asserted she had never been sent notice of that closure. The Department submitted the April 22, 2015 Notice of Case Action (DHHS-1605) which was sent to Claimant's address of record. In accordance with Bridges Administration Manual (BAM) 600 Hearings, there is no jurisdiction to review the action noticed on April 22, 2015 because this request was not received within 90 calendar days of the written notice.

With regard to denial of the August 26, 2015 application, Claimant asserts that the children's Social Security benefits should not be used in determining her Food Assistance Program (FAP) eligibility because the funds go to S. Clark their Social Security Administration payee, not to Claimant.

Bridges Eligibility Manual (BEM) 503 Income, Unearned identifies both Retirement Survivor Disability Insurance (RSDI) and Supplemental Security Income (SSI) as

unearned income. The policy goes on to provide that the gross amount of both, are counted for determining Food Assistance Program (FAP) eligibility.

Bridges Eligibility Manual (BEM) 500 Income Overview (7-1-2015) provides the following:

## **DEFINITIONS**

### **All Programs**

#### **Income**

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if **not** paid directly such as income paid to a representative.

#### **Countable Income**

Income remaining after applying the policy in the income related items is called **countable**. This is the amount used to determine eligibility and benefit levels. Count all income that is **not** specifically excluded.

## **PAYMENT TO REPRESENTATIVE**

### **All Programs**

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; see Bridges Policy Glossary (BPG).

Court-appointed conservators.

Minor children's parents.

Representative payees.

**Example:** Diane's RSDI check is sent to her representative payee. It is Diane's income.

## **THIRD PARTY ASSISTANCE**

Payment of an individual's bills by a third party directly to the supplier using the third party's money is **not** income to the individual.

If the third party is paying the bill instead of paying money due the individual such as money owed for child support or owed on a loan, the payment is the individual's unearned income.

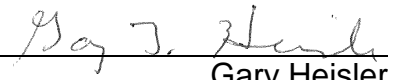
Claimant and [REDACTED] testified that the children's Social Security benefits are paid to [REDACTED], their payee. [REDACTED] then pays for items the children need with their Social Security benefits. The policy example for payments to a representative cited above clearly direct that the funds paid to [REDACTED] are the children's income.

Claimant and [REDACTED] also argued that the policy section on third party assistance shows that the money paid on behalf of the children should not be counted as income for the children. The children's Social Security benefits paid to [REDACTED] are not [REDACTED]'s income. Therefore when [REDACTED] pays for items for the children, she is not using her own money. The policy cited above directs that regardless of who pays with the children's Social Security benefits, the payment is the children's income.

The Food Assistance Program (FAP) financial eligibility budget was checked and found to be correct. 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 denied Claimant's August 26, 2015 Food Assistance Program (FAP) application.

### **DECISION AND ORDER**

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

  
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Gary Heisler  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **11/17/2015**

Date Mailed: **11/17/2015**

GFH / [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 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:

