

**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.: 15-021662
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 07, 2016
County: KENT

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 January 07, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Eligibility Specialist) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department of Health and Human Services (Department) properly determined the amount of Food Assistance Program (FAP) benefits the Claimant is receiving?

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 has a daughter (K.S.) that was born on July 21, 1997.
3. The Claimant's daughter (K.S.) receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED].
4. The Claimant receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED].
5. The Claimant receives monthly earned income as a home help provider in the gross monthly amount of \$ [REDACTED].

6. The Claimant receives monthly unearned income from child support in the gross monthly amount of \$ [REDACTED]
7. On November 10, 2015, the Department notified the Claimant that she was approved for a \$ [REDACTED] Food Assistance Program (FAP) allotment effective December 1, 2015.
8. On November 16, 2015, the Department received the Claimant's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits that she is receiving.

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.

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, 2015).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

The Department will use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p3.

The Department disregard all sources of earned income including wages and training income received by a student until the month after the student stops meeting the requirements. The will disregard 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.
- Living with someone who provides care or supervision. Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (July 1, 2015), p 2.

In this case, the Claimant is an ongoing FAP recipient as a group of four. One member of this group (K.S.) was born on July 21, 1997, and is 18 years of age. Therefore, the Department began including the income of K.S. in the benefit group's countable earnings as directed by BEM 501.

The Claimant received monthly earned income as a home help provider in the gross monthly amount of \$ [REDACTED]. The Claimant's daughter (K.S.) received earned income from employment in the gross monthly amount of \$ [REDACTED] which was determined by multiplying the average of her bi-weekly paychecks in the amount of \$ [REDACTED] and 309.37 by the 2.15 conversion factor. The Claimant received earned income from employment in the gross monthly amount of \$ [REDACTED] which was determined by multiplying the average of her bi-weekly paycheck in the amounts of \$ [REDACTED], \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] by the 2.15 conversion factor. The Claimant received unearned income in the gross monthly amount of \$ [REDACTED] which was determined by taking the average of child support payments received over the previous three months in the amounts of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED].

The benefit group's adjusted gross income of \$ [REDACTED] was determined by reducing their earned income by the 20% earned income deduction, and all income by the \$ [REDACTED] standard deduction. The group is entitled to a shelter deduction of \$ [REDACTED] which was determined by adding their \$ [REDACTED] monthly housing expense to the \$ [REDACTED] heat and utility deduction, then subtracting 50% of their adjusted gross income.

The group's net income of \$ [REDACTED] was determined by subtracting the shelter deduction from their adjusted gross income. A group of four 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, 2015).

The Claimant testified that she does not require her daughter to contribute her earned income towards the support of the family but allows her to use these funds for herself. The Claimant testified that it was unfair to require that the daughter's income be applied towards the group's eligibility for FAP benefits.

Department policy requires a person's children be included in their FAP benefit group mandatory group members, (Department of Health and Human Services Bridges

Eligibility Manual (BEM) 212 (July 1, 2015)) and for all group members over age 18 with earned income, that income is considered countable under BEM 501. Therefore, the Department is required to include the daughter's income towards the group's FAP eligibility.

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) effective December 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 Mailed: **1/11/2016**

KS/nr

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:

