



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 17, 2016
MAHS Docket No.: 16-000318
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

HEARING DECISION

Following Petitioner'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 March 15, 2016, from Lansing, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED]

ISSUE

Did the Department properly determine Petitioner's 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. Petitioner was an on-going recipient of FAP.
2. On October 8, 2015, Petitioner returned a Redetermination (Exhibit 1 Pages 3-8) in which she did not identify any child support income.
3. The Department discovered that Petitioner has been receiving child support of \$ [REDACTED] per week for several months. (Exhibit 1 Pages 12-14)

4. The Department added that income to her FAP budget and in a Notice of Case Action dated December 18, 2015 (Exhibit 1 Pages 20-23) stated her FAP was approved at \$ [REDACTED] per month beginning September 1, 2015.
5. On January 4, 2016, Petitioner requested a hearing.
6. Petitioner is receiving child support for her children who are now [REDACTED] and [REDACTED] years old, with the support dating back roughly 40 years, and Petitioner claiming that her benefits were reduced 40 years ago based upon child support that she was – or should have been – 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.

Per BEM 505, “A standard monthly amount must be determined for each income source used in the budget.” “Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

“Multiply weekly income by 4.3.”

“Multiply amounts received every two weeks by 2.15.”

“Add amounts received twice a month.””

To convert the group members’ weekly incomes to monthly, the total is divided by the number of weeks (four in this case) and then multiplied by 4.3. The Petitioner had received child support payments for several months. That income was included in the budget as unearned income.

Child support is considered “unearned income.” See BEM 503. Per BEM 505, child support is generally averaged over a three month period if the amount of income fluctuates. “Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue.” The issue can center on whether the amounts

are “unusual and not expected to continue.” The Petitioner testified that her child support is being received now for an obligation going back some 40 years. Regardless of when the support was ordered, the support is being received now, and it is expected to continue.

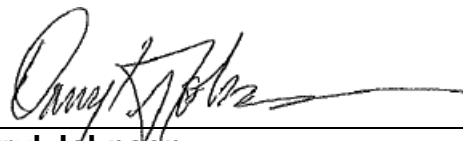
In this case, the Department properly included Petitioner’s child support as unearned income in calculating her FAP budget.

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 Petitioner’s FAP award.

DECISION AND ORDER

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

DJ/mc



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

Petitioner

[REDACTED]