



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 29, 2016
MAHS Docket No.: 16-008458
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 July 20, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. [REDACTED], mother, appeared as a witness for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist (ES), and [REDACTED], Family Independence Manager (FIM).

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly determine the amount of Petitioner's Food Assistance Program (FAP) monthly allotment?

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 is an ongoing recipient of FAP benefits.
2. The FAP group consists of Petitioner and her son. (Hearing Summary; ES Testimony)

3. Petitioner's FAP group was receiving \$ [REDACTED] in FAP benefits each month. (Hearing Summary; ES Testimony)
4. Petitioner's son receives \$ [REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI) that was not previously included in the FAP budget. (Hearing Summary; ES Testimony)
5. The child's father is not in Petitioner's home, the parents have 50/50 custody of the child, and Petitioner receives \$ [REDACTED] per month in child support. (Hearing Summary; Exhibit A, p. 11; ES Testimony; Petitioner Testimony)
6. The RSDI income for Petitioner's son goes to the father as the payee for this Social Security Administration (SSA) issued benefit. (Hearing Summary; Exhibit A, p. 11; ES Testimony; Petitioner Testimony)
7. The Department recalculated Petitioner's FAP budget to include the RSDI income for her son. (Hearing Summary; ES Testimony)
8. On June 2, 2016, a Notice of Case Action was issued to Petitioner stating FAP was decreased to a monthly allotment of \$ [REDACTED] effective July 1, 2016. (Hearing Summary; ES Testimony)
9. On June 24, 2016, Petitioner filed a hearing request contesting the FAP determination. (Exhibit A, pp. 8-12)

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.

BEM 550 addresses the FAP income budgeting. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (October 1, 2015), pp. 1.

For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503, April 1, 2016, p. 28.

Regarding payment to representatives, the Department policy states:

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.

BEM 500, January 1, 2016, p. 8.

In this case, Petitioner is an ongoing recipient of FAP benefits. The FAP group consists of Petitioner and her son. (Hearing Summary; ES Testimony)

Petitioner's FAP group was receiving \$ [REDACTED] in FAP benefits each month. Petitioner's son receives \$ [REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI) that was not previously included in the FAP budget. (Hearing Summary; ES Testimony)

The child's father is not in Petitioner's home, the parents have 50/50 custody of the child, and Petitioner receives \$ [REDACTED] per month in child support. The RSDI income for Petitioner's son goes to the father as the payee for this Social Security Administration (SSA) issued benefit. (Hearing Summary; Exhibit A, p. 11; ES Testimony; Petitioner Testimony)

The Department recalculated Petitioner's FAP budget to include the RSDI income for her son. On June 2, 2016, a Notice of Case Action was issued to Petitioner stating FAP was decreased to a monthly allotment of \$ [REDACTED] effective July 1, 2016. (Hearing Summary; Exhibit A, p. 10; ES Testimony)

Petitioner disagrees with the Department's action based on including the RSDI income in the FAP budget because she does not receive any of the RSDI check. Petitioner understands that the computers/policy automatically add the SSA income to the

household because her son lives there. However, Petitioner's son only lives there 50% of the time. Therefore, Petitioner suggests that only 50% of the RSDI income should be included in the FAP budget. Petitioner confirmed that the only concern with the FAP budget was the RSDI income. (Petitioner Testimony; Mother Testimony; Exhibit A, pp. 8-12)

This Administrative Law Judge must review the Department's action under the existing Department policies and has no authority to change or make exceptions to the Department policies. Under the above cited BEM policies, the Department properly included Petitioner's son's RSDI income in the FAP budget. The gross amount of the RSDI benefit is counted as unearned income, which is counted as the individual's income even when it goes to a representative payee or parent of a minor child. There is nothing in the Department's policy that would allow for only counting 50% of the RSDI income based on the child only being in the home 50% of the time.

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 amount of Petitioner's FAP monthly allotment.

DECISION AND ORDER

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

CL/mc



Colleen Lack
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]