



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: January 12, 2017
MAHS Docket No.: 16-017696
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 January 5, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] Family Independence Specialist [REDACTED] and Regulation Agent [REDACTED]

ISSUE

Did the Department properly add an individual to Petitioner's Food Assistance Program (FAP) group?

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 FAP recipient.
2. Petitioner is the representative payee for an 11-year-old boy who receives \$ [REDACTED] per month in Supplemental Security Income (SSI), and a quarterly state supplement of \$ [REDACTED]
3. On September 30, 2016, Petitioner informed the Department that the boy was living with her daughter and no longer part of her household.

4. On October 11, 2016, the Department referred Petitioner's case to the Office of the Inspector General (OIG) for a front-end eligibility (FEE) investigation.
5. As part of the FEE investigation, the OIG obtained Petitioner's tenant file from the landlord of the apartment into which Petitioner had moved as of September 15, 2016. Her tenant file included the following documents, among others:
 - a. Certification of Ownership of Rental Unit (Exhibit 1 Page 18) listing Petitioner and three children – including the 11-year-old – as being in the household.
 - b. Letter from Social Security Administration (Page 25) identifying her as the payee for the boy's SSI.
 - c. Asset information (Page 27) in which Petitioner reported receiving \$ [REDACTED] per month in SSI.
 - d. Apartment application (Page 28) which identified Petitioner and three children, including the boy, as residents in the apartment.
 - e. Invoices from the Landlord to the Department (Pages 32, 34, and 35), billing the Department for "Section 8" housing assistance for one adult and three children living in the apartment.
 - f. A Section 8 Tenant-Based Assistance Payments Contract (Page 55) which identified Petitioner and three children, including the boy, as members of the household.
6. Based upon the information found in the investigation, the Department included the boy, and his unearned income, in Petitioner's FAP budget.
7. On November 23, 2016, Petitioner appealed the Department's decision to include the boy and his income in her FAP budget.

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.

In this case, Petitioner contended that the boy should not have been included in her FAP group. The rules governing FAP group composition are found in BEM 212 (1/1/17). It defines a “caretaker” on page 2 as “a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. This policy does not apply to foster children (see below). A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group.” It gives the following example:

Example: Emma's grandson Pete (age 15) lives with her and she receives FIP for him as an ineligible grantee. She provides for his care by giving him a place to live, clothing, etc. Emma and Pete must be in the same group.

At page 3, it defines “living with”, and explains the policy for temporary absences.

LIVING WITH

Living with means sharing a home where family members usually sleep and share **any** common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share **only** an access area such as an entrance or hallway or non-living area such as a laundry room are **not** considered living together.

For policy regarding persons in other group living situations; see BEM 617.

Temporary Absence

A person who is temporarily absent from the group is considered living with the group.

A person's absence is temporary if all of the following are true:

- The person's location is known.
- The person lived with the group before an absence (newborns are considered to have lived with the group).
- There is a definite plan for return.

- The absence has lasted or is expected to last 30 days or less.

Exception: The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home.

Petitioner's position was that the boy was living with her (Petitioner's) adult daughter when she (Petitioner) moved into the apartment. She testified that he lived with the daughter from late August until late November. That conflicts with all the documentary evidence that shows she consistently represented to the landlord that he was living with her, and that she was receiving income for him. As explained in BEM 503 (1/1/17) p. 32, in the FAP budget, "Bridges counts the gross amount of current SSA-issued SSI as unearned income."

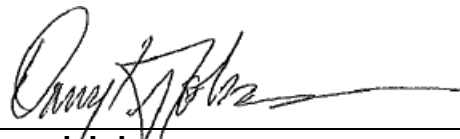
The available evidence supports the Department's decision to include the child, and the unearned income Petitioner was receiving on his behalf, in determining the group's FAP award.

DECISION AND ORDER

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 included the 11-year-old boy, and the associated income, in Petitioner's group and the FAP budget.

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]