



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: May 31, 2017  
MAHS Docket No.: 17-004814  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### 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 May 25, 2017, from Lansing, Michigan. Petitioner was represented by himself and his spouse, [REDACTED] with the assistance of [REDACTED] interpreter [REDACTED]. The Department was represented by Hearing Facilitator [REDACTED].

### ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

### 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 ongoing recipient of Food Assistance Program (FAP) benefits. His Food Assistance Program (FAP) benefit group consists of himself, his spouse, [REDACTED] and his three teen aged children. [REDACTED] and his three children have proper resident status to be eligible for Food Assistance Program (FAP) benefits. [REDACTED] is a full time student at [REDACTED] and does not have proper resident status to be eligible for Food Assistance Program (FAP) benefits.
2. [REDACTED] education is funded by the [REDACTED] and [REDACTED]. The ministry pays: her tuition fees; health insurance for [REDACTED].

herself, her spouse and up to two of her children; and living expense through her monthly stipend of \$ [REDACTED] (Department Exhibit A page 15)

3. Bridges Eligibility Manual (BEM) 212 Food Assistance Program Group Composition (1-1-2017) provides that spouses who are legally married and live together must be in the same benefit group. It also requires that parents and their children under 22 years of age, which includes natural, step and adopted children, must be in the same group.
4. Bridges Eligibility Manual (BEM) 550 FAP Income Budgeting (1-1-2017) requires budgeting a pro rata share of earned and unearned income of group members disqualified for not meeting citizenship/alien status requirements.
5. On March 23, 2017, Petitioner was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) was reduced to \$ [REDACTED] per month for his eligible benefit group of four.
6. On March 30, 2017, Petitioner submitted a hearing request.

### **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.

Petitioner disputes the use of her living expense stipend, from her home country of Iraq, being used to determine her family's Food Assistance Program (FAP) eligibility.

7 CFR 273.9 – Income and deductions provides in relevant part:

**(b)** Definition of income. Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

**(2)** Unearned income shall include, but not be limited to:

**(v)** Payments from Government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(c) Income exclusions. Only the following items shall be excluded from household income and no other income shall be excluded:

(3)

(i) Educational assistance, including grants, scholarships, fellowships, work study, educational loans on which payment is deferred, veterans' educational benefits and the like.

(ii) To be excluded, educational assistance referred to in paragraph (c)(3)(i) must be:

(A) Received under 20 CFR 1087uu. This exemption includes student assistance received under part E of subchapter IV of Chapter 28 of title 20 and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs.

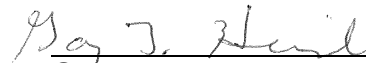
The evidence in this record shows that [REDACTED] receives a living stipend from Iraq. No portion of the federal regulations nor Department policy provides for exclusion of her living stipend from calculation of her families Food Assistance Program (FAP) eligibility. The Department used a pro rata share of 4/5ths of the stipend in calculating the eligibility of the other 4 members of her family.

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 Food Assistance Program (FAP) eligibility.

### **DECISION AND ORDER**

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

GH/nr



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Gary Heisler  
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]