



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 30, 2017  
MAHS Docket No.: 17-006975  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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; 42 CFR 438.400 to 438.424; 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 [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application dated [REDACTED]?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner applied for FAP benefits.
2. Petitioner's group size is two (Petitioner and her minor child).
3. Petitioner received monthly child support income, quarterly State SSI Payments (SSP) payments, and her child receives monthly Supplemental Security Income (SSI) benefits.

4. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were denied effective [REDACTED], due to her net income exceeds the limits. [Exhibit A, pp. 15-17.]
5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 3.]

### **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 the present case, the Department denied Petitioner's FAP application dated [REDACTED], [REDACTED] due to her income exceeding the net income limits. In order to determine if Petitioner's income exceeded the net income limits, the undersigned reviewed the [REDACTED] FAP budget provided by the Department. [Exhibit A, pp. 21-22.]

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. See BEM 556 (July 2013), p. 5. Moreover, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1. RFT 250 indicates that the monthly net income (100%) limit for a group size of two is \$ [REDACTED] RFT 250 (October 2016), p. 1. Thus, it has to be determined if Petitioner's income exceeds the net income limit of \$ [REDACTED]

It was not disputed that the certified group size is two and that the child was a senior/disabled/disabled veteran (SDV) member.

Next, the Department calculated Petitioner's gross countable unearned income to be \$ [REDACTED] [Exhibit A, p. 21.] The Department indicated this amount consisted of the following: (i) \$ [REDACTED] from the child's SSI income; (ii) \$ [REDACTED] monthly average in SSP (\$ [REDACTED] issued quarterly)); and (iii) \$ [REDACTED] in child support income Petitioner received. [Exhibit A, pp. 1, 9, and 10-14.] Petitioner did not dispute the calculation used for the SSI payments (other than the cents portion) and the SSP payments. However, Petitioner disputed the calculation of the child support payments.

The Department presented a “Child Support – Child” document, which showed that Petitioner receives court-ordered direct support for the child. [Exhibit A, p. 10.] This document showed that for each month from [REDACTED], she received \$ [REDACTED] in child support payments. [Exhibit A, p. 10.] Thus, the Department calculated \$ [REDACTED] as her average child support income used for the past three months.

In response, Petitioner argued that she only receives \$ [REDACTED] in monthly child support income. As part of the evidence record, Petitioner provided a “MiChildSupport: Payment Summary” document which supports her argument that she only receives \$ [REDACTED] in child support payments, although the document did not have Petitioner’s name nor the child’s name on the document. [Exhibit A, pp. 4-7.] Petitioner further provided an “Income Withholding Notice” document, which she stated, showed the parent’s total child support obligation amount. [Exhibit 1, p. 1.] But, Petitioner indicated there are withholdings from this amount (i.e., medical) and the income was broken up as follows: (i) current child support \$ [REDACTED] (ii) past child support \$ [REDACTED] (iii) current medical \$ [REDACTED] (iv) past medical \$ [REDACTED] and (v) past other \$ [REDACTED] [Exhibit 1, p. 1.]

The Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (April 2017), p. 4. Include the current month if all payments expected for the month have been received. BEM 505, p. 4. Do not include amounts that are unusual and not expected to continue. BEM 505, p. 4.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 503 (April 2017), p. 6. Medical, dental, child care and educational expenses may also be included. BEM 503, p. 6. Court-ordered child support may be either certified or direct. BEM 503, p. 6. Certified support is retained by the state due to the child’s FIP activity. BEM 503, p. 6. Direct support is paid to the client. BEM 503, p. 6. Child support is income to the child for whom the support is paid. BEM 503, p. 6. Enter child support payments received by a custodial party for an adult child or a child no longer living in the home, as the other unearned income of the payee as long as the money is not forwarded to the adult/child. BEM 503, p. 6. If forwarded to the adult/child, enter as the other unearned income of the adult/child. BEM 503, p. 6.

Court-ordered direct support means child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU). BEM 503, p. 8. The Department counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider: see BEM 518, Voluntary/Direct Support, for direct support income disregard for FIP. BEM 503, p. 8.

Verification sources for court-ordered direct support includes the following: (i) consolidated inquiry; (ii) letter or document from person/agency making payment; (iii) check stub; (iv) data obtained from the Michigan child support enforcement system (MiCSES); (v) contact with child support specialist; or (vi) information from the friend of the court (DHS-243, Verification of Public Records). BEM 503, pp. 40-41.

Finally, gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 (January 2016), p. 4. This may be more than the actual amount an individual receives. BEM 500, p. 4.

Gross income includes amounts withheld from income which are any of the following: Voluntary; to repay a debt; or to meet a legal obligation. BEM 500, p. 4. Some examples of amounts which may be withheld, but are still considered part of gross income are: income taxes; health or life insurance premiums; Medicare premiums; union dues; loan payments; garnishments; or court-ordered or voluntary child support payments. BEM 500, pp. 4-5.

Based on the above information, the undersigned finds that the Department improperly calculated Petitioner's child support income. The Department presented documentation showing that Petitioner received \$[REDACTED] in monthly child support payment. [Exhibit A, p. 10.] However, Petitioner rebutted the Department's argument. Petitioner provided credible evidence showing that she receives only \$[REDACTED] in monthly child support payments. [Exhibit A, pp. 4-7.] As such, the Department miscalculated the child support income in accordance with Department policy and is ordered to recalculate this amount. See BEM 503, pp. 6-8 and 40-41; and BEM 505, p. 6.

Now, Petitioner did raise another issue as to whether the Department should include the total amount of child support the parent is court-ordered to pay. Petitioner presented a document showing the total amount in child support income is \$[REDACTED] but she only receives \$[REDACTED] monthly in her account. [Exhibit A, p. 4, and Exhibit 1, p. 1.] This document showed that the other expenses are withheld from the income, i.e., current medical and past medical. [Exhibit 1, p. 1.] An initial review of policy appears to show that the Department will include the amounts withheld from the child support income in the gross income calculation (i.e., include the medical expenses in the gross income). See BEM 500, p. 4, and BEM 503, pp. 6-8. However, the Department would also need to take into consideration if the medical expenses is an allowable medical deduction for the child. See BEM 554 (January 2017), pp. 9-11. Nevertheless, the Department ultimately miscalculated the child support income and will need to go back and determine the proper calculation in accordance with Department policy. See BEM 500, pp. 4-5; BEM 503, pp. 6-8 and 40-41; and BEM 505, p. 6. The undersigned will also order the Department to initiate verification of the child support income, in order for the Department to calculate the proper child support income. See BAM 130 (April 2017), pp. 1-10.

A review of the remaining budget, though, finds that the Department did properly calculate the following amounts: (i) Petitioner's \$[REDACTED] standard deduction applicable to Petitioner's group size of two; (ii) her housing expenses of \$[REDACTED] and (iii) her heat and utility standard of \$[REDACTED] [Exhibit A, pp. 21-23; and RFT 250 (October 2016), p. 1.] Nevertheless, despite the Department properly calculating the above amounts, the Department still did not calculate the child support income correctly, which results in an improper denial of the FAP application. Therefore, the Department is ordered to re-register and re-process Petitioner's FAP application dated [REDACTED], in accordance with Department policy.

**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 did not act in accordance with Department policy when it improperly denied Petitioner's FAP application effective [REDACTED].

Accordingly, the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate re-registration and re-processing of Petitioner's FAP application dated [REDACTED];
2. Initiate verification of Petitioner's child support payments that she receives on behalf of her minor child;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

EJF/jaf

  
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**Eric J. Feldman**  
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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

[REDACTED]  
  
[REDACTED]  
[REDACTED]  
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