



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR



Date Mailed: September 8, 2017  
MAHS Docket No.: 17-010584  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Landis Lain**

**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 September 6, 2017, from Lansing, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department or State or Respondent) was represented by [REDACTED], Hearings Facilitator.

Respondent's Exhibit P1-P76 was admitted as evidence.

**ISSUE**

Did the Department properly count Petitioner's receipt of Child Support Income?

**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 Food Assistance Program (FAP) beneficiary.
2. Petitioner's adult child left the Petitioner's home and was removed from the FAP case effective September 2015.
3. The Department received DHHS 1010 forms and application from Petitioner on July 31, 2015, May 2, 2016, August 1, 2016, April 19, 2017 and May 27, 2017.
4. Petitioner does not address income in any manner in any of the documents to indicate that she was providing child support income to her adult child, nor did she file a hearing request disputing the income being budgeted for her FAP case.

5. On August 10, 2017, Petitioner filed a Request for Hearing for back pay in FAP.
6. Petitioner requests that Child Support Income be removed from her FAP determination from 2015 forward.
7. Child Support Income was added to Petitioner's FAP case as of February 1, 2016, as Petitioner is the payee of record.
8. No hearing request was received by the Department from February 2016 to July 2017.
9. On May 31, 2017, the Child Support Income was ended in BRIDGES, using the best available information.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Pertinent Department policy dictates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.

- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Petitioner's request for a hearing contesting her FAP benefit allotment was filed on August 10, 2017. The last application for FAP which was filed by Petitioner was May 27, 2017. The last date to contest that FAP notice was August 27, 2017.

Any notice issued to Petitioner on April 28, 2017 or before, for which Petitioner did not file a Request for Hearing, must be **DISMISSED** as untimely.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Court-ordered or voluntary child support payments are considered a part of gross income. BEM 500, pages 4-5

In this case, Petitioner testified that she received the child support income because her daughter's father was still paying arrearages. She then turned the monies over to her adult daughter. Petitioner feels that the Department should not have counted the child support as income for Petitioner because she alleges that she gives the money to her daughter who does not live with Petitioner.

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. BEM 500, page 8

The BPG defines child support as monies paid by an absent parent for the living expenses of a child(ren).

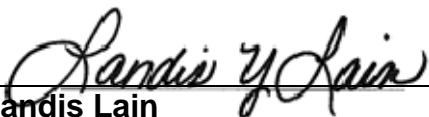
This Administrative Law Judge finds that Petitioner was receiving \$ [REDACTED] per month in court-ordered child support direct payments from January 2017 through August 2017 for her daughter [REDACTED] (date of birth [REDACTED]). (Respondent's Exhibit P61) Petitioner did not provide any documentation that she was a representative payee for her daughter. She did not provide proof that she turned funds over to her daughter. Even if she had provided such proof, Petitioner is the legal payee for the child support funds and thus, has the legal right to do what she wants to do with the funds. Even, if she chose to give the funds to her daughter, the income remains countable for purposes of FAP benefit determination.

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 has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it determined that Child Support Income must be counted in the Food Assistance Program benefit determination.

**DECISION AND ORDER**

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

LL/hb

  
\_\_\_\_\_  
**Landis Lain**  
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]