



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 17, 2018
MAHS Docket No.: 18-002455
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 10, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

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 Food Assistance Program (FAP) recipient on [REDACTED], when the Department received her Redetermination (DHS-1010) form. Exhibit A, pp 4-10.
2. Petitioner's son receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. Exhibit A, pp 11-13.
3. The father of Petitioner's son is the representative payee and he received the son's Retirement, Survivors, and Disability Insurance (RSDI) payment. Exhibit A, pp 11-13.
4. Petitioner receives monthly child support in the gross monthly amount of \$ [REDACTED] but received no payment in [REDACTED]. Exhibit A, p 16.

5. On [REDACTED], the Department received Petitioner's request for a hearing protesting the amount of her allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

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.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017), p 8.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). Child support is income to the child for whom the support is paid. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2017), p 6.

Petitioner was an ongoing FAP recipient on [REDACTED], then the Department received her Redetermination (DHS-1010) form. Petitioner's household includes a son, a mandatory FAP group member, and this son received RSDI benefits. The son's father, a non-household member, is the representative payee for those RSDI benefits.

Petitioner testified that her son's father receives the RSDI benefits and that these funds are applied towards his child support obligation.

The reasons for entering into an arrangement where a non-household family member has been designated as the representative payee for the RSDI benefits is beyond the scope of this hearing decision. Further, the nature and the amount of child support made for the financial needs of Petitioner's son is also beyond the scope of this hearing decision.

Department policy in BEM 500 requires that income paid to an individual acting as a representative for another individual is not the representative's income but is the other individual's income. Further, child support payments are the countable income of the child for whom the support is paid, and countable towards the FAP benefit group.


In this case, Petitioner's son receives countable RSDI and child support, which are both countable towards the eligibility of the entire FAP benefit group. The group is therefore credited with more countable income than the group actually receives, which is consistent with the Department's definition of "gross income." BEM 500, p 4.

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 eligibility for Food Assistance Program (FAP) benefits based on a proper determination of Petitioner's countable income.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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]