

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-11356
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 20, 2011
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 20, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits effective 12/2010.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant is a disabled individual.
3. Claimant received \$1037.50/month in gross Retirement, Survivors, Disability Insurance (RSDI) income from Social Security Administration (SSA).
4. Claimant paid \$36.10/month for a Medicare Part D premium (see Exhibit 2).
5. Claimant paid \$110.50/month for a Medicare Part B premium.

6. Claimant reported and verified other unspecified medical expenses to DHS.
7. DHS failed to code Claimant as a disabled individual and determined Claimant's FAP benefits as if Claimant were not a disabled individual.
8. On 11/30/10, DHS mailed a Notice of Case Action (Exhibit 1) informing Claimant of a \$26/month FAP benefit effective 12/2010.
9. On 12/13/10, Claimant requested a hearing disputing her 12/2010 FAP benefit issuance specifically contending that DHS failed to give Claimant credit for paying medical expenses.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior, disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount and court ordered child support and arrearages paid to non-household members. DHS also considers the medical expenses for group members that are SDV.

Claimant contended that DHS failed to consider her medical expenses in determining her 12/2010 FAP benefit issuance. DHS testified that Claimant was receiving credit for her medical expenses based on a document from Bridges which was not presented as an exhibit. A Notice of Case Action (Exhibit 1) was presented as an exhibit; this document informs clients of any changes to their benefits and includes a breakdown of income and expenses that are used to determine a client's FAP benefit issuance. The document indicated a \$0 credit for medical expenses. The Notice of Case Action is found to be a more reliable document than the unsubmitted medical expense summary testified to by the DHS representative. It is found that DHS failed to give Claimant any credit for medical expenses in her 12/2010 FAP benefit issuance.

Claimant established that she reported and verified an ongoing \$36.10/month expense for her Part D Medicare premium. It was not disputed that DHS should have been aware that Claimant also pays a \$110.50/month medical expense for a Medicare Part B premium. Claimant also indicated that she previously submitted medical expenses to DHS though Claimant was unable to provide any information about the specifics of those expenses. DHS testified that the case file contained no such verification of medical expenses; this would tend to show that Claimant did not previously report or verify medical expenses in the past. Based on the overall actions by DHS in the present case, the undersigned is not inclined to believe that Claimant failed to verify medical expenses. DHS made multiple errors in determining Claimant's FAP benefits and it is reasonable to conclude that another DHS error caused misplacement of Claimant's medical expenses. It was not disputed that Claimant was a disabled individual. Accordingly it is found that DHS erred in not giving Claimant credit for any medical expenses beginning 12/2010.

The undersigned was greatly puzzled in how DHS determine Claimant's 12/2010 FAP benefits as \$26/month. The undersigned attempted FAP budgets which would have included and excluded Claimant's medical expenses and even the FAP budget which excluded medical expenses resulted in a FAP benefit issuance far greater than \$26.

DHS credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking a client's total shelter expenses and subtracting half of Claimant's adjusted gross income. FAP benefit groups without a senior, disabled or disabled veteran (SDV) member are entitled to the actual excess shelter cost or the excess shelter cap of \$458 (see RFT 255), whichever is lesser. FAP benefit groups with a SDV member have no cap for the excess shelter expense.

The Notice of Case Action reflected Claimant's correct housing and utility costs so Claimant's shelter expenses was not an issue. However, if DHS coded Claimant as a non-disabled individual, then DHS would have capped Claimant's excess shelter cost at \$458 rather than giving Claimant her full credit for excess shelter costs. DHS calculated Claimant's FAP benefits based on a \$458 excess shelter expense. Had DHS coded Claimant as a disabled individual, Claimant would have had an excess shelter credit of \$671. If DHS properly considered Claimant's medical expenses, Claimant's excess shelter cost would have been even higher. It is found that DHS failed to properly determine Claimant's 12/2010 FAP benefits by their failure to consider Claimant to be a disabled individual.

It should be noted that the DHS error in coding Claimant as a disabled individual may have been extremely costly to Claimant. This error may have also cost Claimant eligibility for a Medicare Savings Program which would have paid Claimant's monthly \$110.50/month Medicare premium. The undersigned cannot address the premium issue which falls under the Medical Assistance program; the current hearing was only

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requested for FAP benefits. Claimant is strongly encouraged to have DHS address the issue of her eligibility for Medicare Savings Program through a subsequent hearing request or informal discussions with her specialist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefits effective 12/2010. It is ordered that DHS recalculate Claimant's FAP benefits counting Claimant's previously reported and verified medical expenses and by coding Claimant as a disabled individual. DHS shall also allow Claimant to submit verification of any medical expenses which may have been previously ignored by DHS. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/31/2011

Date Mailed: 1/31/2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

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