

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-36738
Issue No. 3003
Case No. [REDACTED]
Hearing Date: July 6, 2011
MACOMB (12)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit on July 6, 2011. The Claimant appeared and testified. [REDACTED] Assistance Payments Supervisor, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS provided Food Assistance Program (FAP) benefits to Claimant in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. At all times pertinent to this case, Claimant was under the age of sixty, she was not disabled, and she was not a veteran.
2. On or about August 1, 2009, DHS began to provide FAP benefits to Claimant.
3. DHS' FAP budget calculations for Claimant do not include a deduction from her gross income for her medical expenses.
4. On June 7, 2011, Claimant filed a Request for a Hearing with DHS stating, "My medical expenses have not been budgeted in my food stamps."

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-3015. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U. S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

In the DHS Hearing Summary prepared by DHS for this Administrative Hearing, DHS states that the legal authority for its action is BEM 554, "FAP Allowable Expenses and Expense Budgeting." I agree that BEM 554 is the applicable DHS policy in this case.

BEM 554 states that only senior, disabled and veteran clients are entitled to a deduction from their gross income for medical expenses. BEM 554, pp. 6-9. Therefore I determine and decide that Claimant is not entitled to a deduction of her medical expenses from her gross income for FAP calculation purposes. I find and determine that the Department acted in furtherance of policy and should be AFFIRMED in this case.

In conclusion, based on the findings of fact and conclusions of law above, I AFFIRM the Department's action in this case. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS took appropriate action in calculating Claimant's FAP benefits. The Department's action is AFFIRMED. The Department need take no further action.



Jan Leventer
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 11, 2011

2011-36738/JL

Date Mailed: July 11, 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 date of the rehearing decision.

JL/cl

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