

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-40894
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 22, 2011
DHS County: Wayne (82-82)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant's request for a hearing. After due notice, a telephone hearing was held on August 22, 2011, in Detroit, MI. Claimant appeared and testified at the hearing. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits?

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. In 2011, Claimant received \$16 per month FAP benefits from DHS.
2. On February 14, 2011, a Medicaid waiver worker conducted a Redetermination home interview with Claimant.
3. At the Redetermination interview, Claimant submitted information regarding her current medical expenses.
4. On March 4, 2011, DHS issued a Notice of Case Action notifying Claimant her FAP benefits would be continued at the same amount effective March 1, 2011.
5. In the Notice of Case Action, DHS gave Claimant a deduction for her medical expenses of \$157.

6. On June 23, 2011, DHS received Claimant's hearing request, which was initially received at the Michigan Department of Community Health on May 25, 2011.

CONCLUSIONS OF LAW

FAP was established by the U.S. 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 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

BEM 212, "Food Assistance Program Group Composition," BEM 503, "Income, Unearned," BEM 550, "FAP Income Budgeting," and BEM 554, "FAP Allowable Expenses and Expense Budgeting," and RFT 260, "Food Assistance Issuance Tables," are the DHS manual Items which provide the procedures for DHS' action in this case.

At the Administrative Hearing in this case, DHS did not present any evidence as to how the medical expense deduction of \$157 was calculated. Claimant, on the other hand, testified she submitted medical bills showing expenses in excess of that amount. Based on the record in this case, it is concluded and determined that DHS erred in its calculation of Claimant's medical expense deduction. DHS' calculation must be REVERSED and recalculated giving full consideration to Claimant's actual medical expenses prior to March 1, 2011.


In conclusion, based on the findings of fact and conclusions of law above, it is concluded and decided that DHS is REVERSED in this case. DHS shall recalculate Claimant's FAP budget and provide any supplemental retroactive benefits appropriate to restore Claimant to the benefit level to which she is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS ORDERED that DHS shall:

1. Initiate procedures to recalculate Claimant's March 1, 2011, FAP allotment using accurate, complete medical expense information in calculating Claimant's deduction for medical expenses;
2. Initiate procedures to provide any supplemental retroactive benefits to Claimant that are necessary to restore her to the benefit level to which she is entitled as of March 1, 2011.

All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: August 25, 2011

Date Mailed: August 26, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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/pf

cc:

