

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201154283
Issue No: 3003
Case No: [REDACTED]
Hearing Date: October 19, 2011
Cheboygan County DHS

ADMINISTRATIVE LAW JUDGE: **Suzanne D. Sonneborn**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on September 14, 2011. After due notice, a telephone hearing was held on October 19, 2011. Claimant appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits?

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 receiving FAP at all times pertinent to this hearing.
2. On June 14, 2011, the department mailed Claimant a Redetermination form (DHS 1010) requesting that she complete and return the form by July 5, 2011 in order that the department may determine her continued eligibility for FAP. (Department Exhibits 1-4).
3. On June 23, 2011, the department received Claimant's completed Redetermination form, wherein Claimant indicated, among other things, a monthly rental expense of [REDACTED] and a monthly prescription drug expense of [REDACTED]. (Department Exhibits 1-4).

4. On August 5, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that effective August 1, 2011, her FAP benefits would be reduced from [REDACTED] per month to [REDACTED] per month for the reason that her monthly rent expense had been reduced. (Department Exhibit 5).
5. On August 31, 2011, Claimant requested a hearing contesting the department's reduction in her FAP benefits. (Hearing Request).

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness of that decision. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the FAP program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

For FAP purposes, all earned and unearned income available to Claimant is countable. 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 (AMP), 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. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was

already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

The department also uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For a FAP group with no senior/disabled/disabled veteran (SDV) member, the department uses the following: dependent care expense; excess shelter up to the maximum in RFT 255; and court-ordered child support and arrearages paid to non-household members. BEM 554. For a FAP group with one or more SDV members, the department relies upon the aforementioned expenses, as well as medical expenses for the SDV member(s) that exceed \$35.00. BEM 554. Allowable medical expenses of the SDV person in the eligible FAP group include, but are not limited to, prescription drugs and the postage for mail-ordered prescriptions. BEM 554. A person is considered to be a SDV group member if he or she is at least one of the following:

- Senior - At least 60 years old;
- Disabled -
 - Receives one of the following: a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; Medicaid program which requires a disability determination by MRT or Social Security Administration; Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria; or
 - Receives or has been certified and awaiting their initial payment for one of the following: Social Security disability or blindness benefits; Supplemental Security Income, based on disability or blindness, even if based on presumptive eligibility;
- Disabled Veteran – A veteran of the armed services with a service or non-service connected disability rated or paid as total by the Veterans Administration, or a veteran's surviving spouse or child who receives or is approved for VA disability benefits or is entitled to VA death benefits and has a disability considered permanent under the Social Security Act. BEM 550.

In the instant case, Claimant indicated in her completed Redetermination form that she is 55 years old and receives both Social Security disability and SSI benefits. Despite Claimant's status as an SDV group member, the department failed to regard Claimant's monthly prescription drug expenses when the department conducted a redetermination review of Claimant's continued FAP eligibility in July 2011. At the hearing, the department representative acknowledged that it was department error not to have sought verification from Claimant of her prescription drug expenses and not to have ultimately included such expenses in Claimant's FAP budget, to the extent such expenses exceed [REDACTED] pursuant to BEM 554.

The Administrative Law Judge therefore finds that, based on the material and substantial evidence presented during the hearing, the department improperly

determined Claimant's FAP benefits as the department failed to seek verification of Claimant's allowable medical expenses and incorporate such expenses as appropriate into Claimant's FAP budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined Claimant's FAP benefits as the department failed to seek verification of Claimant's allowable medical expenses and incorporate such expenses into Claimant's FAP budget.

Accordingly, the department's actions are **REVERSED** and the department shall immediately redetermine Claimant's FAP eligibility by obtaining the necessary verifications and issue any supplemental checks if she is otherwise entitled to them.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 19, 2011

Date Mailed: October 20, 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.

SDS/cr

cc:

