

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201237565
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 2, 2012
County: Oakland DHS (03)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 2, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared and testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant'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. On 2/20/12, Claimant applied for FAP benefits.
2. Claimant's household received gross income totaling \$2228/month in gross Retirement, Survivors, Disability Insurance (RSDI).
3. Claimant's household RSDI was reduced \$100/month for payment of a Medicare premium.
4. Claimant also reported payment of a private insurance premium on her Assistance Application.

5. On 2/23/12, DHS denied Claimant's FAP benefit application due to excess income by Claimant.
6. DHS failed to factor Claimant's medical expenses in the FAP benefit eligibility decision.
7. On 3/2/12, Claimant requested a hearing to dispute the FAP benefit application denial.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Claimant requested a hearing to dispute the denial of a FAP application dated 2/20/12. It appears DHS originally registered the application for 2/21/12 based on the beginning date listed on the Notice of Case Action (see Exhibit 2). DHS testified that the application was received on 2/20/12. Because 2/20/12 is a slightly more favorable date for Claimant, the DHS testimony that 2/20/12 was the proper application date shall be accepted as accurate.

DHS stated the application denial was based on excess income. Claimant raised several arguments concerning why she believed that the application was improperly denied.

Claimant contended that DHS improperly calculated the income for the household. It was not disputed that Claimant's spouse received \$301/month in employment income. It was also not disputed that Claimant received \$570 in gross RSDI and that her spouse was eligible for \$1658 in gross RSDI (see Exhibits 7-9). Claimant noted that her spouse only received \$1558/month in RSDI.

For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. Though Claimant's spouse receives \$1548/month in net RSDI, DHS properly determined that \$1648, the gross RSDI amount, was the proper amount to budget.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups without a senior (over 60 years old), 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. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense. It was not disputed that Claimant and her spouse qualified as seniors and/or disabled persons.

The \$100 difference between gross and net RSDI is not irrelevant. It was also not disputed that the \$100/month payment was for payment of a Medicare premium. This is a budgetable medical expense. It was not disputed that DHS neglected to factor this, and other, medical expenses in the FAP benefit determination. Claimant and her spouse expressed that they had other medical expenses, such as a monthly insurance premium (which was noted by Claimant on her application) and copayments for prescriptions (which were not noted on the application). Based on the presented evidence, DHS should have requested verification of Claimant's medical expenses prior to the application denial.

Claimant also raised an issue concerning whether her utilities were properly budgeted. DHS gives a flat utility standard to all clients. BPB 2010-008. The utility standard of \$553 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. DHS gave Claimant the standard utility credit; thus, no error was made in budgeting Claimant's utilities in determining FAP benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

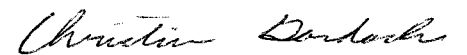
did act properly when

did not act properly when failing to request and factor medical expenses in the FAP benefit determination.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant's FAP benefit application dated 2/20/12; and
2. request verification of Claimant's household medical expenses, in compliance with DHS regulations.



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

Date Signed: April 4, 2012

Date Mailed: April 4, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

