

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201257854
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 15, 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 August 15, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility since 6/2011.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Since 6/2011, Claimant was part of a six member household.
3. Since 6/2011, Claimant was not eligible for Social Security Administration benefits.
4. Since 6/2011, two of Claimant's children were considered to be disabled by SSA.
5. DHS issued various FAP benefit issuances to Claimant from 7/2011-10/2011, in part, based on monthly medical expenses of \$0/month.

6. For 2011, Claimant's spouse paid \$623/month in insurance premiums to cover his spouse and four children, but not himself.
7. In 2012, Claimant's spouse's insurance premium obligation increased to \$652/month.
8. On 10/24/11, an administrative hearing was held.
9. A subsequent administrative decision held that DHS was to recalculate Claimant's FAP benefit eligibility due to a failure to factor medical expenses and shelter costs.
10. On an unspecified date, DHS supplemented Claimant for some FAP benefits from 7/2011-10/2011, in part, without factoring any medical expenses for Claimant.
11. DHS failed to issue FAP benefits to Claimant for the benefit months of 11/2011-2/2012 due to Claimant's alleged failure to return a Semi-Annual Contact Report (SACR).
12. On 2/28/12, DHS terminated Claimant's FAP benefit eligibility due to Claimant's alleged failure to return the SACR.
13. On 3/15/12, Claimant reapplied for FAP benefits.
14. On an unspecified date, DHS denied Claimant's FAP benefit application due to excess income and, in part, by budgeting \$0/month in medical expenses.
15. On 5/29/12, Claimant requested a hearing to dispute FAP benefit issuances since 6/2011.

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). DHS administers the FAP 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).

Claimant requested a hearing to dispute several issues. Claimant disputed the failure by DHS to factor medical expenses in budgets from 6/2011-10/2011 following an administrative order. Claimant disputed the DHS failure to issue FAP benefits from 11/2011-2/2012. Claimant also disputed the DHS termination of FAP benefit eligibility effective 3/2012. Claimant also disputed a FAP benefit denial stemming from an application submitted to DHS on 3/15/12.

Concerning the 6/2011-10/2011 FAP budgets. DHS verified that \$0/month in medical expenses were factored in the budgets. Claimant conceded the \$1536.22 shelter obligation was correct for each of those budgets.

It was not disputed that DHS only factors medical expenses for those members who are senior, disabled or disabled veterans (see BEM 554). Claimant contended that she is a disabled individual and that DHS failed to budget medical expenses that she incurred. DHS defines a disabled person as one who receives or has been certified and awaiting their initial payment for Social Security disability or blindness benefits or Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility (see BEM 550)

Claimant stated that she previously received SSA benefits but was terminated due to an error by SSA which she has been trying to correct for over a year. Claimant conceded that she has not been eligible for SSA benefits since at least 6/2011. Claimant may, or may not, eventually be reinstated for SSA eligibility. Claimant could not present any documentation which verified a likely reinstatement of SSA benefits. The bottom line is that Claimant has not been eligible for SSA benefits since at least 6/2011. Thus, she is not a disabled individual and therefore not eligible for medical expenses that she incurred during the FAP benefit budget months.

It was not disputed that Claimant's spouse paid \$623/month for private health insurance in 2011. That amount increased to \$652/month in 2012. Claimant contended that DHS erred by not factoring her spouse's insurance premiums.

Allowable medical expenses include premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). BEM 554 at 8. If the policy covers more than one person, DHS is to allow a prorated amount for the senior/disabled/disabled veteran person(s). *Id.*

Claimant noted that her spouse's insurance cost does not cover her spouse. DHS did not dispute this issue. It was not disputed that two of Claimant's children met the DHS standards for disability. Thus, 40% (2 disabled members out of 5 covered) of the insurance premium expense should be considered as a medical expense. It was not disputed that DHS failed to factor the allowable pro-rated medical coverage expense. Thus, it is found that DHS erred by not factoring the cost of Claimant's spouse's insurance premiums.

Claimant alleged other medical expenses such as appointments and transportation costs for her daughters. Claimant failed to provide evidence of any such expenses. DHS had no evidence of any such expenses. It is found that Claimant failed to establish any further medical expenses.

Claimant noted that if she was eligible for FAP benefits, she would have had incurred medical expenses because then she could afford doctor visits. Claimant implied that DHS should factor such hypothetical medical expenses. DHS factors actual expenses, not hypothetical expenses. It is found that DHS properly did not consider Claimant's hypothetical medical expenses.

Claimant also raised an issue concerning her eligibility from 11/2011-2/2012. DHS did not issue any FAP benefits to Claimant for those months due to Claimant's alleged failure to submit a Semi-Annual Contact Report (SACR). The SACR is a redetermination form requiring completion by the sixth month of a FAP benefit period with employment income.

A mere denial of receiving a DHS form is typically an insufficient excuse to justify a reversal of a FAP benefit termination. The present case is atypical. It was concerning that DHS waited four months to take an action based on Claimant's alleged failure to submit a SACR. It would have seemed that the SACR would have been cited in the many conversations between Claimant and DHS between 10/2011 and the date of FAP benefit termination. Also, there were multiple adverse actions taken by DHS leading to a hearing request at the same time of the benefit period end. Thus, from Claimant's perspective, it was never clear why she did not receive FAP benefits from 11/2011-2/2012. Based on the presented evidence, it is found that DHS is required to consider Claimant's FAP benefit eligibility from 11/2011-2/2012.

It was not disputed that DHS mailed Claimant a FAP benefit termination notice on 2/28/12. Claimant requested a hearing to dispute the termination on 5/29/12, 91 days following the date of written notice. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4. Claimant's hearing request was untimely to dispute a lack of FAP benefits after 2/2012.

However, it was not disputed that Claimant reapplied for FAP benefits on 3/15/12 and that the benefits were denied. Claimant's dispute regarding the denial mirrored her dispute with previous months when FAP benefits were not issued. It can be deduced with certainty that the DHS denial notice occurred no earlier than 3/15/12 since DHS cannot take a case action on a date prior to an application submission. It can also be deduced with certainty that Claimant timely requested a hearing to dispute the 3/15/12 FAP benefit application denial. Thus, Claimant timely requested a hearing to dispute the 3/15/12 application denial.

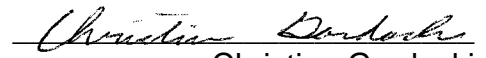
It was not disputed that DHS failed to factor Claimant's insurance expenses in the 3/15/12 application denial. Thus, DHS is ordered to recalculate Claimant's eligibility effective 3/15/12 and to include the established medical insurance expenses.

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 eligibility for FAP benefits. It is ordered that DHS:

- redetermine Claimant's FAP benefit eligibility for: 6/2011-2/2012 and 3/15/12-forward based on the finding that DHS failed to factor Claimant's spouse's prorated insurance premium expenses; and
- supplement Claimant for FAP benefits, if any, which were properly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: August 21, 2012

Date Mailed: August 21, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

