

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201267761
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: September 5, 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 September 5, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly factored Claimant's reported medical expenses into the FAP benefit eligibility determination effective 8/2012.

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. As of 7/2012, Claimant was over 60 years of age.
3. Claimant's FAP benefit eligibility was subject to semi-annual review effective 8/2012.
4. Claimant reported medical expenses to DHS with the following dates of service: \$130 on [REDACTED], \$465 on [REDACTED] and \$251 on [REDACTED].
5. On 7/19/12, DHS determined Claimant's FAP benefit eligibility but did not factor Claimant's reported medical expenses in the determination.

6. On 7/23/12, Claimant requested a hearing to dispute the FAP benefit determination.

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).

The present case involves a dispute over a FAP benefit eligibility determination effective 8/2012. Claimant originally contended that DHS miscalculated his income in the FAP benefit determination. Claimant subsequently conceded that he understood that DHS properly calculated his income based on his reporting. Thus, Claimant's income dispute is considered resolved. Claimant also raised a dispute over whether DHS properly budgeted medical expenses into the FAP benefit determination effective 8/2012.

DHS is to consider only the medical expenses of senior, disabled or disabled veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554 (1/2011), p. 6. For purposes of FAP benefits, a senior is a person 60 years or older. BEM 550 (2/2012), p. 1. At the time of the disputed DHS action, it was not disputed that Claimant's age exceeded 60 years and that Claimant was entitled to have medical expenses factored in his FAP benefit eligibility.

Based on a check of Claimant's FAP benefit budget from 8/2012, it was not disputed that DHS failed to budget any medical expenses for Claimant. It was also not disputed that Claimant submitted and verified a total of \$846 in medical expenses over the course of his FAP benefit period. The testimony indicated that the medical expenses were one-time only dental expenses.

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. BEM 554 (1/2011), p. 7. Claimant stated that he wished the expenses to be budgeted over the course of his FAP benefit period. DHS provided no valid reason for the failure to budget Claimant's verified medical expenses. Based on the presented evidence, it is found that DHS failed to factor \$846 in medical expenses in determining Claimant's FAP benefit eligibility effective 8/2012.

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 FAP benefit eligibility effective 8/2012. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 8/2012, subject to the finding that Claimant has \$846 in medical expenses to be budgeted over the remaining months in the FAP benefit period; and
- (2) supplement Claimant for any FAP benefits not received as a result of the DHS failure to properly budget the expenses.

The actions taken by DHS are REVERSED.



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

Date Signed: September 11, 2012

Date Mailed: September 11, 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

CG/hw

cc:

