

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201220946
Issue No.: 2026; 3002
Case No.: [REDACTED]
Hearing Date: January 19, 2012
Wayne County DHS (31)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 19, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

The first issue is whether DHS properly determined Food Assistance Program (FAP) benefit issuance for Claimant effective 1/2012.

The second issue is whether DHS properly determined Claimant's eligibility for Medical Assistance (MA) as Medicaid subject to a monthly deductible of \$600/month.

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 and MA benefit recipient.
2. On an unspecified date prior to 10/2011, Claimant submitted verification of property insurance and taxes.
3. DHS failed to budget Claimant's verified property taxes and insurance in determining FAP benefits for Claimant.

4. On 12/17/11, DHS determined Claimant was eligible for Medicaid subject to a monthly deductible of \$600/month.
5. On 12/17/11, DHS determined Claimant's FAP benefit eligibility from at least 10/2011-1/2012 without factoring property taxes or insurance for Claimant.
6. On 12/21/11, Claimant requested a hearing to dispute the FAP and MA benefit issuance for 1/2012.

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 controlling DHS regulations are those that were in effect as of 12/2012, the effective month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

Claimant contended that he was dissatisfied for FAP benefit issuances from the last two to three years. 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. Though there are exceptions to the above rule when applied to FAP benefits, the present case does not merit exception. The specific case action which Claimant disputed was one affecting 1/2012 FAP benefit eligibility. This analysis will be limited to a determination of 1/2012 FAP benefit eligibility.

FAP benefits are affected by several factors including: household members, income, housing expenses, child support expenses, dependent care expenses, medical expenses and various DHS credits and calculations. In the present case, all FAP benefit factors were not disputed other than whether Claimant verified property tax and insurance for his residence. Claimant testified that he submitted the verifications at some unspecified date in the past. The testifying DHS specialist responded that Claimant did not verify such expenses, but conceded that she only had the case for a short period of time. DHS was unable to locate the case file. Had DHS brought the case file, it could have at least been searched for the allegedly submitted property tax and insurance documents. As DHS could not present a case file, Claimant's testimony was

the best evidence concerning submission of property taxes and insurance. It is found that Claimant submitted property tax and insurance verifications to DHS. Accordingly, it is found that DHS erred in failing to factor Claimant's property tax and insurance information in the 1/2012 FAP budget analysis.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

A recipient with excess income for ongoing Medicaid may still be eligible for Medicaid under the deductible program. Clients with a Medicaid deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 at 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. As a disabled person, Claimant may qualify for MA benefits through Aged-Disabled Care (AD-Care) or Group 2 Spend-Down (G2S). AD-Care and G2S are both SSI-related categories. BEM 163 outlines the proper procedures for determining AD-Care eligibility. BEM 166 outlines the proper procedures for determining G2S eligibility.

For both types of MA coverage, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 at 20. DHS also counts the gross amount of veteran pension income as countable income. *Id.* at 26. It was not disputed that Claimant's gross monthly income was \$577 from RSDI and Claimant received \$439/month from veteran's retirement benefits. Claimant's total unearned income was \$1016/month.

DHS allows a \$20 disregard. It is found that Claimant's net income for purposes of MA benefit eligibility is \$996.

Concerning AD-Care eligibility, the only expense considered in the budget is for guardianship (or employment expenses for individuals with employment income). Thus, no credits are deducted from the income.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a one person MA group is \$908/month. RFT 242. It is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Claimant may still receive MA benefits subject to a monthly deductible through the G2S program. The deductible is calculated by subtracting Claimant's Protected Income Level (PIL) from Claimant's MA net income. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. Claimant's PIL is \$375. RFT 240 at 1. There was no evidence of any insurance premiums which are also subtracted from the gross income. Subtracting the PIL (\$375) from the MA group's net income (\$986) results in a monthly deductible of \$621.

DHS calculated a more favorable deductible for Claimant (\$600). The difference is perhaps due to some insurance premium or other expense which was not made known during the hearing. The presented evidence established that Claimant is not entitled to a remedy of the DHS determination of Claimant's MA benefit eligibility.

DECISION AND ORDER

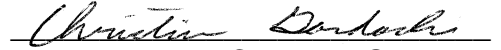
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for MA benefits as Medicaid subject to a \$600/month deductible. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to factor property taxes and insurance in the 1/2012 FAP benefit analysis based on a previous submission by Claimant. It is ordered that DHS:

- (1) request verification of property tax and insurance from Claimant;
- (2) recalculate Claimant's FAP benefit eligibility effective 1/2012 if Claimant responds timely to the DHS request including supplementing Claimant for any FAP benefits as a result of the yet to be determined amount.

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The actions taken by DHS are PARTIALLY REVERSED.


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

Date Signed: January 24, 2012

Date Mailed: January 24, 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

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cc:

