

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201245871
Issue No.: 2006, 3015
Case No.: [REDACTED]
Hearing Date: June 18, 2012
County: Wayne DHS (19)

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 June 18, 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], Specialist, and [REDACTED], Manager.

ISSUES

The first issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to excess income.

The second issue is whether DHS properly terminated Claimant's Medicare Savings Program (MSP) benefit eligibility due to a failure to verify checking account information.

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. Claimant had gross monthly income of \$1032 from Retirement, Survivors, Disability Insurance (RSDI) and \$804/month in gross employment income.
3. Claimant's monthly expenses included: \$96 for a Medicare premium and \$633 for a mortgage.

4. On 3/15/12, DHS mailed Claimant a Verification Checklist (Exhibit 1) requesting a copy of Claimant's checking account.
5. On 3/30/12, DHS initiated termination of Claimant's MA benefit eligibility, effective 5/2012, due to an alleged failure by Claimant to return a checking account statement.
6. On 3/30/12, DHS initiated termination of Claimant's FAP benefit eligibility, effective 5/2012, due to excess income.
7. On 4/4/12, Claimant called DHS to inquire why her MA benefit eligibility was terminating.
8. DHS advised Claimant that Claimant's MA benefit eligibility was closed.
9. On 4/9/12, Claimant requested a hearing to dispute the MA and FAP benefit terminations.

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 FAP and MA benefit terminations. The FAP benefit termination will be considered first.

It was not disputed that Claimant had gross RSDI of \$1032/month. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20.

It was established that DHS budgeted Claimant's employment income as \$804/month. Claimant did not confirm the amount as correct, but testified that she worked approximately 1-3 times per week for \$85/day, as a substitute teacher. The \$804 amount is in line with Claimant's testimony.

DHS only counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to Claimant's income creates a countable monthly income of \$644 (dropping cents). Adding Claimant's earned and unearned income results in a total countable income of \$1676.

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.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from Claimant's monthly countable income. It was not disputed that Claimant had \$96/month in medical expenses. DHS applies a standard \$35 copayment to verified medical expenses resulting in \$61 in budgetable medical expenses. Subtracting the budgetable medical expenses from Claimant's gross income results in a running total income of \$1615.

Claimant's FAP benefit group received a standard deduction of \$146. RFT 255. The standard deduction is given to all FAP benefit groups though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1469.

It was not disputed that Claimant had a housing obligation of \$633/month. 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. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$553); this amount is found to be \$1186.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$452 (rounding up).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group net income is found to be \$1017. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant had excess income for FAP benefits. It is found that DHS properly terminated Claimant's FAP benefit eligibility effective 5/2012 due to excess income.

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.

DHS terminated Claimant's MA benefit eligibility due to an alleged failure by Claimant to submit a checking account statement. DHS stated that the request was prompted from an audit which revealed that Claimant had a checking account, but no verification for the account was in the case file. For purposes of this decision, it will be conceded that DHS made a valid request via VCL for Claimant's checking account statement and that Claimant failed to meet the due date on the VCL.

After Claimant received a notice (Exhibit 2) informing her of the MA benefit termination, Claimant called DHS on 4/4/12. The testifying DHS specialist informed Claimant that the MA benefit case was closed due to Claimant's failure to comply with the DHS request for her checking account statement.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 at 3. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.* 3-4.

The negative action date of the MA benefit termination was 4/10/12 (see Exhibit 2); Claimant's MA benefit eligibility was not terminated until this date. Claimant's 4/4/12 telephone call to DHS was an attempt at compliance prior to the negative action date. The DHS failure to inform Claimant of what she could do to prevent the case closure is problematic for DHS. The entire point of a pending negative action is to give Claimant additional time to become compliant prior to a negative action date. It is found that Claimant attempted to comply with the DHS verification request but was not given proper information by DHS to allow compliance. Accordingly, the MA benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefit eligibility effective 5/2011. 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 terminated Claimant's eligibility for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit eligibility effective 5/2012;
- (2) redetermine Claimant's eligibility effective 5/2012 subject to the finding that Claimant did not fail in submitting verification of a checking account to DHS; and
- (3) supplement Claimant for any benefits, if any, not received as a result of the improper termination.

The actions taken by DHS are REVERSED.



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

Date Signed: June 25, 2012

Date Mailed: June 25, 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:

