

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201246877
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: June 20, 2012
County: Macomb DHS (36)

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, an in-person hearing was held on June 20, 2012 from Sterling Heights, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], District Manager, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly calculated medical expenses concerning Claimant's Food Assistance Program (FAP) benefit eligibility effective 3/2012.

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. Claimant was part of a two-person FAP benefit group that also included Claimant's spouse.
3. Claimant's FAP benefits were scheduled for redetermination effective 1/2012.
4. On an unspecified date, DHS determined that Claimant was eligible for \$184 FAP benefits effective 1/2012, in part, based on budgeting \$838/month in ongoing medical expenses (see Exhibit 61).

5. On 4/17/12, Claimant requested a hearing to dispute the failure by DHS to give Claimant credit for \$1412/month in medical expenses.

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 a FAP benefit issuance of \$184 beginning 3/2012. 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. After discussing all potential FAP benefit factors with DHS and Claimant, the only disputed factor concerned medical expenses.

It was not disputed that DHS credited Claimant with \$838 in medical expenses (see Exhibits 60 and 61). Claimant provided a list (Exhibits 2-3) which estimated that he should be given credit for \$1412/month in medical expenses. Monthly medical expenses that were not in dispute included: \$199.80 for Medicare premiums, \$242.44 in insurance premiums and \$344 in adult day care for Claimant's spouse. It should be noted that Claimant listed a \$346 expense for his wife's care (see Exhibit 3) but he testified that \$344 was the proper monthly expense.

DHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 at 6. DHS is to base the estimate on all of the following (*Id.*):

- Verified allowable medical expenses.
- Available information about the SDV member's medical condition and health insurance.
- Changes that can reasonably be anticipated to occur during the benefit period.

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. *Id.* at 7. Bridges, the DHS database, will allow the expense in the first benefit month the change can affect. *Id.*

Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

- Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.
- Prescription drugs and the postage for mail-ordered prescriptions.
- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).
- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s).
- Medicare premiums.
- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs cannot be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High Cost Cities using the rate for the current year.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it must be treated as a medical expense.

Claimant projected that his household would have monthly expenses of \$100 for dental, \$215 for hearing aids and \$35 for eyeglasses. Part of Claimant's support for the expenses was a letter from a physician (Exhibit 12) estimating that Claimant would have annual expenses of \$430 for eyeglasses and \$2600 for hearing aids. The physician letter was unpersuasive evidence of medical costs. Claimant acknowledged that the physician was not his or his spouse's eye doctor, hearing doctor or dentist. Claimant also acknowledged that the physician would have no knowledge of Claimant's out-of-pocket liability for such expenses. It is found that the letter failed to verify Claimant's dental, hearing aid or eyeglass expenses.

At the hearing, Claimant presented a dental bill which was incurred following the DHS FAP benefit determination. Claimant contended that the bill was supportive of his estimated dental costs. DHS cannot be faulted for failing to factor a medical bill that had

not existed at the time of the FAP benefit determination. Claimant is free to submit the bill to DHS for consideration for future FAP benefit eligibility.

In support for his claim for hearing aid expenses, Claimant cited a Medical Needs form (Exhibit 19), an ear test result (Exhibit 19a) and a price range for a hearing aid printed from the internet (Exhibit 20). None of the presented forms verified that Claimant did, or will, incur a hearing aid expense. Based on the presented evidence, Claimant failed to establish dental, optical or auditory expenses.

Claimant contended that DHS failed to accurately project his transportation expenses for medical appointments. Claimant estimated that he should have been credited for a total of \$161 in medical transportation expenses. DHS credited Claimant with \$52 in medical transportation expenses. Part of the dispute concerned the amount that Claimant should have been credited for driving. Claimant contended that he should receive \$.55/mile reimbursement per a Massachusetts client advocate publication. DHS gave Claimant a \$.24/mile reimbursement. Per DHS regulations, the correct mileage reimbursement rate is \$.39/mile. (see http://www.michigan.gov/documents/dmb/ttrateOct2011_2_364883_7.pdf). Thus, Claimant is entitled to an increased mileage credit from DHS.

Claimant presented physician letters establishing that he and his spouse had regular appointments. It was not established whether DHS had already credited Claimant for the mileage. It is known that Claimant should receive mileage credit for the following medical appointments:

[REDACTED] (Exhibit 5) for Claimant	1 visit/week
[REDACTED] (Exhibit 5) for Claimant's spouse	1 visit/2-3 weeks
[REDACTED] (Exhibit 7) for Claimant's spouse	1 visit/2-3 months
[REDACTED] (Exhibit 10 + other letter) for Claimant's spouse	1 visit/3 months

DHS did not credit Claimant for any prescription expenses. Claimant submitted a history of prescription costs for himself and his spouse (Exhibits 35-37). The documents from [REDACTED] and [REDACTED] established costs of \$127.08 from 9/9/11-12/14/11, \$24 from 9/9/11-12/2/11 and \$62.79 from 2/23/11. Medical expenses from over one year ago are not persuasive evidence of ongoing expenses and were properly not budgeted by DHS. The other prescription expenses appear to be ongoing expenses and should have been factored by DHS.

DHS noted that Claimant wrote that [REDACTED] "pays Claimant's "high priced meds" (see Exhibit 2); thus, DHS implied that Claimant did not have out-of-pocket costs for prescriptions. Claimant clarified that the submitted prescription expenses were not for high priced meds; thus, [REDACTED] "did not pay for them. Claimant's clarification was sensible. It is found that DHS failed to factor Claimant's submitted medical expenses.

Claimant contended that he had many over-the counter medication expenses. As verification of the expenses, Claimant provided credit card statements (Exhibits 39-49) verifying purchases from [REDACTED]. The statements failed to verify any of the items that


were purchased. A verification of a purchase from [REDACTED] is not sufficient evidence that the purchase was for an allowable medical expense. It is found that DHS properly did not credit Claimant for over-the counter medical expenses due to a lack of verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to factor some medical expenses in Claimant's FAP benefit determination effective 3/2012. It is ordered that DHS:

- (1) recalculate Claimant's FAP benefit eligibility effective 3/2012 subject to the addition of the following ongoing medical expenses:
 - prescription costs of \$127.08 from 9/9/11-12/14/11 and \$24 from 9/9/11-12/2/11;
 - travel reimbursement at a rate of \$.39/mile for any mileage previously allowed by DHS
 - mileage expenses for the following facilities and number of visits, if not previously factored:
 - [REDACTED] (Exhibit 5) for Claimant - 1 visit/week
 - [REDACTED] (Exhibit 5) for Claimant's spouse- 1visit/2-3 weeks
 - [REDACTED] (Exhibit 7) for Claimant's spouse- 1 visit/2-3 months
 - [REDACTED] (Exhibit 10 + other letter) for Claimant's spouse- 1 visit/3 months
- (2) supplement Claimant for any FAP benefits not previously issued after the above medical expenses are factored.

The actions taken by DHS are REVERSED.


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

Date Signed: June 28, 2012

Date Mailed: June 28, 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: [REDACTED]
Macomb County DHS (36)/ 1843
[REDACTED]
C. Gardocki
MAHS