

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313916
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 10, 2013
County: Wayne DHS (17)

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 January 10, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on Claimant's behalf. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager

ISSUE

The issue is whether DHS properly denied Claimant's Food Assistance Program (FAP) benefit application.

FINDINGS OF FACT

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

1. On 8/13/12, Claimant applied for FAP benefits.
2. Claimant had ongoing medical expenses including: Medicare premiums, private insurance premiums and copayments.
3. On 10/9/12, DHS determined that Claimant was ineligible for FAP benefits, in part, based on \$0/month in medical expenses.
4. On 11/28/12, Claimant requested a hearing to dispute the FAP benefit application denial.

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).

Claimant requested a hearing to dispute a FAP benefit application denial. FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. The figures used in the benefit determination were discussed with Claimant. All budget factors, except one, were confirmed by Claimant as correct. The only factor in dispute involved Claimant's medical expenses.

It was established that DHS budgeted \$0 in medical expenses for Claimant. DHS applies a \$35/month copayment to medical expenses. BEM 556 (10/2011), p.3. Thus, clients will not receive any credit for medical expenses unless they total more than \$35/month.

It was not confirmed whether Claimant reported medical expenses to DHS or whether DHS requested proof of Claimant's medical expenses. It was not disputed that Claimant and his spouse each paid Medicare premiums of \$99.90/month. It was also not disputed that DHS could have verified the medical expenses from a Social Security Administration report, which DHS routinely uses to verify Retirement, Survivors, Disability Insurance (RSDI) income. Because it was established that DHS failed to factor some of Claimant's medical expenses in the FAP benefit determination, it is presumed that DHS failed to consider all of Claimant's medical expenses. Accordingly, the DHS denial is found to be improper for failing to factor Claimant's medical expenses.

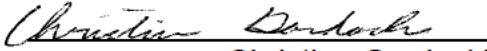
DHS noted that Claimant may be ineligible for FAP benefits, even after medical expenses are factored. DHS may be correct, however, this cannot be confirmed until a new benefit determination is performed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS:

- (1) re-register Claimant's request for FAP benefits dated 8/13/12; and
- (2) process Claimant's FAP benefit request subject to the finding that DHS failed to request proof of Claimant's medical expenses.

The actions taken by DHS are REVERSED.


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

Date Signed: January 15, 2013

Date Mailed: January 15, 2013

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:

