

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201314843
Issue No.: 3002; 2026
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County: Wayne DHS (27)

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 February 6, 2013 from Detroit, Michigan. Participants included the above-named claimant, [REDACTED], Claimant's spouse, testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUES

The issue is whether DHS properly determined Claimant's and her spouse's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

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 and her spouse were ongoing FAP and MA benefit recipients.
2. Claimant and her spouse lived with their three minor children.
3. Claimant received gross rental property income totaling \$3750/month.
4. Claimant worked 12 hours/week managing the rental properties.
5. Claimant's rental expenses were \$2368/month.
6. Claimant's spouse received a net self-employment income averaging \$1255/month.

7. Claimant and her spouse were responsible for a \$2134/month mortgage.
8. On 10/19/12, DHS determined Claimant's FAP benefit eligibility, effective 11/2012, to be more than \$500/month.
9. On 10/19/12, DHS determined Claimant and her spouse were eligible for Medicaid, effective 11/2012, subject to a monthly deductible of \$307/month.
10. On 11/30/12, Claimant requested a hearing to dispute the FAP and MA benefit determinations.

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, in part, to dispute a FAP benefit determination effective 11/2012. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

Claimant testified that she received \$3750/month in income from rental properties. She stated that she managed the properties approximately 12 hours/week and had expenses of \$2368/month resulting in a net profit of \$1382.

Other rental income means any rental income that is not farm land rental, in-home rental or room and board income. BEM 504 (1/2010), p. 2. If the property management requires less than 20 hours per week, the income is considered unearned income. *Id.* Bridges (the DHS database) counts the gross rent payment minus allowable expenses as income. *Id.*, p. 3. Bridges allows expenses that are the higher of:

- 65% of the rental payment; or
- actual rental expenses if the landlord chooses to report and verify the expenses.

Id.

Applying the above policies to Claimant's income means that Claimant is entitled to a 65% expense (\$2437.50) which is slightly higher than Claimant's actual expenses. The income is considered unearned income because Claimant spends less than 20 hours managing the properties. The result is a countable unearned income of \$1312 (dropping cents).

It was not disputed that Claimant's spouse was self-employed and averaged \$1255/month in net income. DHS only counts 80% of a FAP member's timely reported

monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the self-employment income creates a countable monthly employment income of \$1004.

Claimant's and her spouse's countable income are to be added to calculate the countable household income. That amount is found to be \$2316 (dropping cents).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, 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 an uncapped excess shelter expense. It was not disputed that Claimant's household had no SDV members.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Claimant's group had no such expenses.

Claimant's FAP benefit group receives a standard deduction of \$186. RFT 255 (10/2012), p. 1. 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 \$2130.

It was not disputed that Claimant pays a mortgage of \$2134/month. DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$2709.

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 \$1643.75. However, Claimant's excess shelter credit is capped at \$469 (see *Id.*) because the group has no SDV members.

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's net income is found to be \$1661. 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's proper FAP benefit issuance is found to be \$294.

Claimant disputed a FAP benefit issuance of over \$500. Evidence not admitted noted that DHS under-estimated Claimant's spouse's income. It is found that DHS may have improperly determined Claimant's eligibility, but the improper determination resulted in a higher benefit issuance than Claimant was entitled to receive. Claimant is not entitled to any administrative remedy for an over-issuance of FAP benefits.

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.

Claimant also disputed an MA benefit determination by DHS. DHS stated that Claimant was entitled to Medicaid subject to a \$307/month deductible.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* It was not disputed that Claimant is only potentially eligible for FIP-related MA. Two potential FIP-Related MA programs for which Claimant could be eligible are Low Income Family (LIF) and Group Two Caretaker (G2C).

LIF budget calculations are outlined in BEM 110. For purposes of LIF eligibility, employment income receives a \$200 + 20% disregard. Unearned income receives no deduction. For purposes of LIF, the countable net income is determined to be \$2156.

LIF eligibility exists when the LIF group's monthly income does not exceed the LIF income limit. The monthly net income limit for a five person LIF group is \$732/month. RFT 243 (7/2007), p. 1. Claimant's group's net income exceeds the income limits for LIF eligibility. It is found that DHS properly denied MA benefits based on LIF.

Claimant can still receive Medicaid through G2C. Income calculations for all Group 2 MA categories are located within BEM 536. The calculation starts with Claimant's spouse's self-employment income of \$1255. A \$90 disregard is applied to gross employment income making Claimant's running countable income total \$1165. Claimant's unearned income of \$1312 is added to the self-employment resulting in a running countable household income of \$2477. The running countable income is divided by the sum of 2.9 and Claimant's number of dependents (four dependents- three minor

children and Claimant's spouse). Dividing \$2477 by 6.9 creates a prorated share of income of \$358 (dropping cents). That number is multiplied by 2.9 to create the adult's share of the adult's own income of \$1038 (dropping cents). An additional \$358 is added (the couple's share of each other's income) to determine a total net income of \$1396 for purposes of G2C eligibility. DHS allows deductions for insurance premiums, remedial services and ongoing medical expenses; none of these expenses were alleged. The income limit for G2C eligibility is \$500. *Id.* It is found that DHS properly did not find Claimant or her spouse eligible for Medicaid under the G2C program.

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.

The amount that the countable income (\$1396) exceeds the income limit (\$500) for G2C is the amount of Claimant's deductible. This amount is found to be \$896. DHS calculated a deductible of \$307, a more favorable determination for Claimant. Claimant is again not entitled to an administrative remedy for a DHS decision more favorable than it should have been.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to an administrative remedy for the FAP and MA benefit determinations, effective 11/2012. The actions taken by DHS are AFFIRMED.



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

Date Signed: 2/12/13

Date Mailed: 2/12/13

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:

