

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

**IN THE MATTER OF:**



Reg. No.: 201320020  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: February 20, 2013  
County: Wayne DHS (15)

**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 February 20, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly calculated medical expenses concerning Claimant's Food Assistance Program (FAP) benefit eligibility effective 11/2012.

**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's FAP benefit eligibility was scheduled for redetermination, effective 12/2012 (see Exhibits 1-2).
3. Claimant turned in dozens of documents and receipts (Exhibits 3-45) concerning medical expenses.
4. On 11/15/12, DHS determined Claimant's FAP benefit eligibility, effective 11/2012, in part, based on \$0 countable medical expenses.

5. On 12/17/12, Claimant requesting a hearing to dispute the failure by DHS to factor medical expenses in the redetermination.

### **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 eligibility redetermination, effective 12/2012. During the hearing, it was thought that the FAP benefit redetermination was effective 11/2012 (Claimant's Redetermination, Exhibits 1-2). The Redetermination concerned a FAP benefit redetermination effective 12/2012. 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. Claimant only disputed the failure by DHS to budget medical expenses in the redetermination.

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](http://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.  
BEM 554 (11/2012), pp. 7-8.

DHS conceded that some of Claimant's medical expenses were valid, at least after Claimant submitted a physician letter verifying the need for several over-the-counter medications. Claimant's expenses from a three month window (09/2012-11/2012) were considered. A three month window was chosen somewhat capriciously; it was thought to be considered long enough to insure a fair window for DHS and Claimant without being onerous. DHS acknowledged the following list of expense amounts (dates are included for each expense):

[REDACTED]	\$2.50
[REDACTED]	\$2.60
[REDACTED]	\$38.39
[REDACTED]	\$2.60
[REDACTED]	\$6.50
[REDACTED]	\$9.98
[REDACTED]	\$6.29
[REDACTED]	\$11.99
[REDACTED]	\$22.38
[REDACTED]	\$6.67
[REDACTED]	\$40.99
[REDACTED]	\$2.60
[REDACTED]	\$24.35
[REDACTED]	\$8.49
[REDACTED]	\$9.99
[REDACTED]	\$7.29
[REDACTED]	\$6.99
[REDACTED]	\$8.99
[REDACTED]	\$5.39
[REDACTED]	\$6.49
[REDACTED]	\$12.49
[REDACTED]	\$38.39
[REDACTED]	\$8.09
[REDACTED]	\$7.48
[REDACTED]	\$7.99

	\$4.99
	\$2.60
	\$6.49
	\$6.99

Claimant contended that DHS failed to consider additionally submitted receipts that failed to verify a date of purchase or date of service. Acceptable verification sources include, but are not limited to:

- current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid;
- insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer;
- DHS-54A, Medical Needs, completed by a licensed health professional;
- SOLQ for Medicare premiums;
- written statements from licensed health care professionals; or
- collateral contact with the provider. (most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

The DHS requirement of a date of service or date of purchase is reasonable. Without a date, there is a potential for fraud. It is found that DHS properly required Claimant to verify dates of purchase and service for the submitted medical expenses.

The above medical expenses totaled \$326.98 of medical expenses for the period of 9/2012-11/2012. The average monthly expense was \$108.99. Based on the presented evidence, Claimant is entitled to a credit of \$108.99 in monthly medical expenses in her FAP benefit redetermination.

There was a dispute as to what FAP benefit months the expenses should cover. DHS contended that Claimant was required to verify her medical expenses on a monthly basis.

DHS is to estimate an SDV person's medical expenses for the benefit period. *Id.*, p. 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.

The above policy suggests that DHS does not want to burden themselves, or a client, with monthly medical expense submission. Thus, Claimant's medical expenses should be budgeted over the entire FAP benefit period.

**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 Claimant's medical expenses in a FAP benefit redetermination. It is ordered that DHS:

- (1) recalculate Claimant's FAP benefit eligibility, effective 12/2012, subject to the finding that Claimant verified \$108.99/month in medical expenses over the period of 9/2012-11/2012, based on the list expenses within this administrative decision;
- (2) factor the above medical expenses over Claimant's entire FAP benefit period; and
- (3) 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: 2/28/2013

Date Mailed: 2/28/2013

**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.

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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:

