

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

IN THE MATTER OF:



Reg. No.: 201324212
Issue No.: 3002, 2026
Case No.: [REDACTED]
Hearing Date: February 14, 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, a telephone hearing was held on February 14, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) program benefits, effective 1/2013.

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 received \$1005/month in gross Retirement, Survivors, Disability Insurance (RSDI) for being a disabled individual.
3. Claimant's daughter received \$228/month in Supplemental Security Income (SSI).
4. Claimant reported a \$649/month rental obligation to DHS.
5. DHS failed to attempt to verify Claimant's rental obligation.

6. On 12/28/12, DHS determined Claimant was eligible for \$426/month in FAP benefits, effective 1/2013, in part, based on a gross household income of \$1226, rental obligation of \$630 and standard utility credit of \$575.
7. On 12/28/12, DHS determined Claimant was eligible for Medicaid subject to a \$593/month deductible, effective 1/2013.
8. DHS failed to evaluate Claimant for Medicare Savings Program (MSP) benefit eligibility.
9. On 1/7/13, 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 to dispute a FAP benefit determination effective 2/2013. 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. Claimant raised disputes concerning income, rent and utilities.

DHS determined Claimant's household income to be \$1226/month. Claimant testified that she receives \$1005/month in gross RSDI. Claimant also testified that her RSDI is reduced for payment of Part B and Part D Medicare premiums. For all programs, generally, the gross amount of RSDI is countable income. BEM 503 (11/2012), p. 20. Claimant also stated that her daughter receives \$228/month in SSI. Adding Claimant's RSDI and her daughter's SSI results in a countable income of \$1233, more than the amount determined by DHS. Claimant is not entitled to an administrative remedy for a DHS budget error which could only increase Claimant's FAP benefit eligibility.

DHS budgeted a rental obligation for Claimant of \$630/month. DHS failed to present any evidence justifying the rent amount. Claimant testified her obligation was \$649/month. DHS conceded that Claimant's Assistance Application reported a rental obligation of \$649. There was no evidence that DHS ever sought verification of Claimant's rental obligation. Accordingly, Claimant is entitled to an opportunity to verify the rental obligation of \$649.

Claimant noted that she has expenses for water, electricity and a \$125/month cable bill. 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. DHS factored the standard utility credit. Claimant is not entitled to any further budget credit for utilities.

Based on the presented evidence, the only error found that could adversely affect Claimant's FAP benefit eligibility was the failure by DHS to give Claimant an opportunity to verify her rental obligation. Claimant also raised a dispute concerning her MA benefit eligibility.

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).

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.* As a disabled individual and caretaker to minor children, Claimant is potentially eligible for MA benefits through SSI-related and FIP-related categories. For purposes of this decision, only the SSI-related categories will be considered because the income limits are more attainable. In other words, if Claimant is ineligible for Medicaid through SSI-related categories due to income, Claimant is not capable of receiving a more favorable MA benefit decision from a FIP-related category.

As a disabled person, Claimant may qualify for MA benefits through Aged-Disabled Care (AD-Care) or Group 2 Spend-Down (G2S). AD-Care and G2S are both SSI-related categories. BEM 163 outlines the proper procedures for determining AD-Care eligibility. BEM 166 outlines the proper procedures for determining G2S eligibility.

For both types of MA coverage, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 at 20. It was not disputed that Claimant's gross RSDI benefit was \$1005/month.

For purposes of AD-Care eligibility, DHS allows a \$20 income disregard. DHS also gives budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (for January through March only). None of the deductions apply to Claimant. Claimant's net income, for purposes of AD-Care eligibility is \$985/month.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a one-person MA group is \$931/month. RFT 242. As Claimant's net income exceeds the AD-Care income limit, it is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Claimant may still receive MA benefits, subject to a monthly deductible through the G2S program. Clients with a 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. BEM 545 at 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

The deductible is calculated by subtracting the Protected Income Level (PIL) from the MA net income. The protected income level (PIL) is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Claimant's shelter area and group size is \$375. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant paid \$108 in monthly Medicare premiums. Subtracting the PIL, \$20 disregard and Medicare premium from the group's income, results in a monthly deductible of \$502. DHS determined Claimant to be eligible for a deductible of \$593/month. DHS did not present an MA budget so it cannot be known with certainty how DHS calculated Claimant's deductible. Because it was determined in a FAP benefit analysis that DHS under-budgeted Claimant's income, the difference was presumably caused by a DHS failure to factor Claimant's Medicare premiums.

DHS offers a program within MA benefits to pay monthly Medicare Part B premiums; the program is called the Medicare Savings Program (MSP). DHS is to do Medicare Savings Programs determinations for Group 2 MA clients if they are entitled to Medicare Part A; Claimant is believed to be such a client.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, deductibles and coinsurances. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium, if DHS funding is available.

DHS failed to explain why Claimant was not evaluated for MSP eligibility. It is found that DHS erred by failing to determine Claimant's eligibility for MSP.

DECISION AND ORDER

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

- (1) redetermine Claimant's FAP benefit eligibility, effective 1/2013, subject to the finding that DHS failed to provide Claimant with an opportunity to verify her rental obligation; and
- (2) redetermine Claimant's MA benefit eligibility, effective 1/2013, subject to the finding that DHS failed to factor Claimant's Medicare premiums; and
- (3) determine Claimant's MSP benefit eligibility, effective 1/2013.

The actions taken by DHS are PARTIALLY REVERSED.



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

Date Signed: 2/20/2013

Date Mailed: 2/20/2013

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:

