

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324768
Issue No.: 3002, 2026
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Wayne DHS (19)

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 28, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist and [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) and Medical Assistance benefit eligibility, effective 12/2012.

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 and MA benefit recipient.
2. Claimant was the only member of a FAP benefit group.
3. Claimant had \$1264 in unearned income.
4. Claimant had an average monthly housing obligation of \$747.92/month.
5. Claimant had no day care or child support expenses.
6. Claimant had a Medicare premium expense, effective 1/2013.

7. On 12/21/12, DHS mailed Claimant a Notice of Case Action informing Claimant of a FAP benefit determination of \$94, effective 12/2012, in part, based on a standard utility credit of \$575 and \$0 in medical expenses.
8. On 12/21/12, DHS mailed Claimant a Notice of Case Action informing Claimant of a MA benefit determination, effective 12/2012, that Claimant is eligible for Medicaid subject to an \$854 deductible.
9. On an unspecified date, DHS determined Claimant to be eligible for \$126/month in FAP benefits, effective 1/2013, in part, based on the start of a \$104.90/month Medicare premium.
10. On 1/10/13, Claimant requested a hearing to dispute the termination of FAP benefits.

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).

The present case concerns a FAP benefit eligibility redetermination effective 12/2012. DHS presented a FAP benefit budget (Exhibits 1-2) verifying the figures used in the FAP benefit redetermination. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

It was not disputed that Claimant received \$1264/month in unearned income. Based on Claimant's testimony, the income came from child support and RSDI.

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 was disabled and/or aged.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35/month copayment to monthly medical expenses. Claimant alleged that she had a

\$104.90/month Medicare premium expense beginning 1/2013. DHS properly failed to budget the expense in Claimant's FAP benefit eligibility for 12/2012.

Claimant's FAP benefit group receives a standard deduction of \$148. 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 \$1116

It was not disputed that Claimant verified a \$747.92/month housing obligation. Claimant contended that DHS failed to factor her obligations for water and other utilities. DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$575 (see RFT 255 (10/2012), p. 1) 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 \$1323 (rounding to nearest dollar).

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 \$765.

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 \$351. 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 \$94, the same amount calculated by DHS.

As noted above, Claimant became responsible for a Medicare premium of \$104.90 beginning in 1/2013. Applying this change to Claimant's eligibility for 1/2013 results in an adjusted gross income of \$1046, excess shelter amount of \$800 and net income of \$246. Based on these figures, Claimant's FAP benefit eligibility for 1/2013 is found to be \$126, again the same benefit amount determined by DHS. It is found that DHS properly determined Claimant's FAP benefit eligibility for 12/2012 and 1/2013.

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.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. It was not disputed that Claimant was a disabled and/or an aged individual. 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.

As noted above, Claimant's total monthly unearned income was \$1264. 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 \$1244.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163 (10/2010), p. 1. The net income limit for AD-Care for a one-person MA group is \$931/month. RFT 242 (5/2012), p. 1. 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.

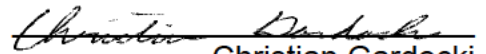
Claimant may still receive MA benefits, subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called 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 (7/2011), p. 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. For the 12/2012 MA benefit determination, which is the benefit month affected by the Notice of Case Action tied to Claimant's request, Claimant had none of these expenses. Subtracting the PIL and \$20 disregard from the group's income results in a monthly deductible of \$869, the same amount as calculated by DHS. It is found that DHS properly determined Claimant's MA benefit eligibility, effective 12/2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for FAP and MA benefits, effective 12/2012. The actions taken by DHS are AFFIRMED.


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

Date Signed: 3/8/2013

Date Mailed: 3/8/2013

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:



