

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201349434
Issue No.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: June 27, 2013
County: Grand Traverse

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 June 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included Kakren Widing.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient.
2. On May 16, 2013, the Department conducted a routine semi-annual review of the Claimant's eligibility to receive benefits. The Department reduced the Claimant's monthly Food Assistance Program (FAP) allotment and increased the Claimant's Medical Assistance (MA) deductible.
3. The Department received the Claimant's request for a hearing on May 21, 2013, protesting the reduction of Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

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). The Department of Human Services (DHS or Department) 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2013), pp 1-7.

- Allowable expenses include all of the following:
 - Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
 - Interest and principal on loans for equipment, real estate or income-producing property.
 - Insurance premiums on loans for equipment, real estate and other income-producing property.
 - Taxes paid on income-producing property.
 - Transportation costs while on the job (example: fuel).
 - Purchase of capital equipment.
 - A child care provider's cost of meals for children. Do not allow costs for the provider's own children.
 - Any other identifiable expense of producing self-employment income except those listed below.
 - Allowable expenses for rental/room and board are different than those listed above.

- Not Allowed
 - A net loss from a previous period.
 - Federal, state and local income taxes.
 - Personal entertainment or other individual business expenses.
 - Money set aside for retirement.
 - Depreciation on equipment, real estate or other capital investments. BEM 502.

The Department will accept federal income tax returns as verification of income, but expenses must be verified using the Self-Employment Statement (DHS-431) and receipts must be attached unless the client opts to accept the flat 25% expense deduction.

The Department has the burden of establishing that its actions were a proper application of policy to the Claimant's circumstances. Before benefits can be issued, the Claimant has the burden of establishing eligibility to receive benefits.

In this case, the Department submitted documentary evidence showing how it determined the Claimant's monthly countable self-employment income, and countable expenses.

However, the Department failed to submit evidence or testimony demonstrating how it applied these income and expenses towards its eligibility determination for Medical Assistance (MA) and the Food Assistance Program (FAP).

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department failed to establish that it properly determined the Claimant's eligibility for Medical Assistance (MA) and the Food Assistance Program (FAP).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's eligibility for Medical Assistance (MA) and the Food Assistance Program (FAP).

The Department's Medical Assistance (MA) and Food Assistance Program (FAP) eligibility determinations are **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) as of May 1, 2013.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/02/2013

Date Mailed: 07/02/2013

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.

201349434/KS

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

KS/pw

cc:

