

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

**IN THE MATTER OF:**



Reg. No.: 201343549  
Issue No.: 2027, 3002, 5000  
Case No.: [REDACTED]  
Hearing Date: June 27, 2013  
County: Wayne DHS (31)

**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 June 27, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

The second issue is whether DHS properly terminated Medicaid based on Supplemental Security Income (SSI) eligibility after Claimant's federal SSI eligibility ended.

The third issue is whether Claimant is entitled to State Emergency Relief (SER) for assistance with paying energy bills when Claimant never applied for SER.

**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 MA and FAP benefit recipient.
2. Claimant did not apply for SER for assistance with energy services.
3. Claimant was the only member of a FAP benefit group.

4. Claimant was a federal SSI recipient.
5. On an unspecified date, Claimant's federal SSI eligibility ended and Claimant subsequently became a Retirement, Survivors, Disability Insurance (RSDI) recipient.
6. DHS failed to perform an ex-parte MA benefit review.
7. On an unspecified date, DHS determined Claimant was eligible for \$16 in FAP benefits, effective 3/2013.
8. On 4/2/13, DHS terminated Claimant's MA benefit eligibility, effective 5/2013.
9. On 4/18/13, Claimant requested a hearing to dispute the reduction of Medicaid, FAP and for DHS to pay Claimant's energy bill.

### **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 3/2013. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

It was not disputed that Claimant received \$448/month in a pension. It was not disputed that Claimant received \$1173/month in RSDI. Claimant's total income is found to be \$1621.

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 a disabled individual.

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. It was not disputed that Claimant had no medical, day care or child support expenses.

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 \$1473.

It was not disputed that Claimant's mortgage expenses were \$700/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 (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 \$1275.

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 \$539 (rounding up to nearest dollar).

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 \$934. 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 \$16, the same amount calculated by DHS.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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 termination of MA benefits. It was not disputed that Claimant was a Medicaid recipient based on her SSI status.

When SSI benefits stop, central office evaluates the reason based on SSA's negative action code, then does one of the following (*Id.*, p. 5):

- SSI Closure. MA-SSI is closed in Bridges if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). Bridges sends the recipient a DHS-1605.
- SSI cases not closed due to the policy above are transferred to the SSI Termination (SSIT) Type of Assistance. A redetermination date is set for the second month after transfer to allow for an *ex parte* review.

It was not disputed that after Claimant's SSI eligibility, Claimant was a Retirement, Survivors, Disability Insurance (RSDI) recipient. This is persuasive evidence that

Claimant is still a disabled individual and that DHS is required to perform an ex parte review prior to terminating MA benefit eligibility.

An ex parte review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BAM 210 (11/2012), p. 1. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. *Id.* The review includes consideration of all MA categories. *Id.*

DHS contended that Claimant's MA eligibility was properly terminated after Claimant lost her federal SSI eligibility. DHS contended that it was Claimant's burden to reapply for MA benefits following the termination. DHS failed to establish that an ex parte review was attempted and/or whether additional information was needed from Claimant to establish eligibility. Accordingly, the MA benefit termination was improper.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. DHS (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Claimant requested a hearing for help on a gas and electric bill from "time to time". Claimant testified that DHS made payments on her energy bill in the past and that she appreciated the payments. Claimant also suggested that her energy bill should be paid because she is low-income and has various medical problems. Claimant's suggestions are relevant to potential SER eligibility.

The application for SER is the DHS-1514, Application for State Emergency Relief. ERM 103 (8/2012), p. 1. All SER applicants must complete this form unless they apply online through MIBridges for an SER covered service. *Id.*

Claimant conceded that she never applied for SER. Claimant's circumstances do not justify any consideration of energy service payment without an SER application. Based on the presented evidence, Claimant failed to allege a DHS action which would justify a hearing request.

### **DECISION AND ORDER**


The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish a DHS action concerning SER for which a hearing may be requested. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit eligibility, effective 3/2013. The actions taken by DHS are PARTIALLY AFFIRMED.

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

- (1) reinstate Claimant's MA benefit eligibility, effective 5/2013; and
- (2) initiate processing of an ex parte review to determine Claimant's ongoing MA eligibility.

The actions taken by DHS are PARTIALLY REVERSED.

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

Date Signed: 7/15/2013

Date Mailed: 7/15/2013

**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:

