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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-67087
Issue No.: 3002, 2026
Case No.: [redacted]
Hearing Date: October 9, 2013
County: Wayne DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 9, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [redacted], Specialist.

ISSUES

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

The second issue is whether DHS properly determined Claimant's Medical Assistance (MA) eligibility.

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 part of a household that included a minor child.

3. Claimant received $1107/month in Retirement, Survivors, Disability Insurance (RSDI).

4. Claimant's son received $553/month in RSDI.

5. Claimant's monthly rent was $705.

6. Claimant failed to timely report medical expenses.

7. On [redacted], DHS determined that Claimant was eligible for $54/month in FAP benefits, effective 1/2013, based on monthly income of $1660, rent of $705/month and $0 countable medical expenses (see Exhibits 1-4).

8. On [redacted], DHS determined that Claimant was eligible for Medicaid subject to a $445/month deductible.

9. On [redacted], Claimant requested a hearing to dispute her FAP and MA benefit eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute her ongoing FAP eligibility. Claimant's primary argument was that she did not believe that she received benefits based on her income and expenses. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

It was not disputed that Claimant received $1107/month in RSDI and her minor child received $553/month. DHS properly factored a total household income of $1660/month in the FAP benefit determination.

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 $35.00 per month copayment to monthly medical expenses. It was not disputed that Claimant had no day

care or child support expenses. Claimant testified that she incurred several medical expenses which DHS failed to factor in her FAP eligibility.

DHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 (7/2013), p. 11. The expense does not have to be paid to be allowed. *Id*. DHS is to allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. *Id.* DHS is to allow only the non-reimbursable portion of a medical expense. *Id*.

Claimant insisted that she regularly incurred medical expenses and that DHS failed to factor unpaid medical expenses. Claimant was unable to identify specific medical expenses that DHS failed to factor. For example, Claimant alleged that a 2012 medical expense paid by her private health insurance should have been factored by DHS. The document cited by Claimant listed a patient pay amount of $0. DHS cannot factor a medical expense that is entirely paid by insurance.

Claimant brought medical bills to the hearing and contended that those bills should have been factored by DHS. Claimant had not yet submitted the bills to DHS. DHS cannot be faulted for failing to factor previously unreported expenses.

There was also evidence suggesting that Claimant submitted proof of bills long after she incurred the expense. The one medical bill discussed during the hearing verified an expense incurred in [redacted]/2012 and submitted to DHS in [redacted]/2013.

For DHS to factor medical expenses, the medical bill cannot be overdue. *Id.* The medical bill is not overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue. *Id.*

The only medical expense cited during the hearing related to a date of service from [redacted]/2012. Assuming that Claimant incurred the expense (she didn't), it would be an overdue bill when factoring the bill was submitted to DHS in [redacted]/2013.

DHS presented testimony that Claimant submitted proof of multiple medical expenses, that the expenses were inputted in the DHS database and that none of the expenses caused a change in FAP eligibility. Thus, it appears that DHS properly excluded medical expenses in the FAP benefit determination. The below analysis will re-evaluate this issue.

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 $1512.

It was not disputed that Claimant's housing obligation was $705/month obligation. 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 $1280.

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 $524.

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 $988. DHS determined Claimant's net income to be $1043. A DHS budget was not presented to verify how DHS determined the net income, but it is known that DHS caps shelter expenses at $469 for groups without an SDV member. RFT 255 (10/2012), p. 1. A $469 shelter expense would lead to a net income of $1043. It is found that DHS failed to factor Claimant's disability in the FAP determination.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute an MA benefit determination. It was not disputed that DHS determined Claimant to be eligible for Medicaid subject to a $445/month deductible.

Clients may qualify under more than one MA category. BEM 105 (10/2010), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility or the least amount of excess income. *Id.* As it happened, DHS determined Claimant's Medicaid eligibility based on her caretaker status rather than a disabled individual. Two potential FIP-Related MA programs for which Claimant could be eligible are Low Income Family (LIF) and Group Two Caretaker (G2C).

The LIF income limit for a four-person LIF group is $413/month. RFT 243 (7/2007), p. 1. Allowable LIF expenses include: employment income deductions, dependent care

expenses child support expenses and guardianship expenses. Claimant did not allege to have any such expenses. It was not disputed that Claimant's LIF group total income was $1660/month. DHS properly determined Claimant to be ineligible for LIF.

As a caretaker to minor children, Claimant could also receive Medicaid through G2C. The net income calculation starts with determining Claimant's pro-rated income. This is calculated by dividing Claimant's income ($1107) by a pro-rated divisor. The pro-rated divisor is the sum of 2.9 and the number of dependents (one child). Claimant's pro-rated income is $283. The income is multiplied by 2.9 to determine the adult's share of the adult's own income ($820).

Deductions are given for insurance premiums, remedial services and ongoing medical expenses. Claimant did not allege having such expenses. The income limit for G2C eligibility is $375. RFT 240 (7/2007), p. 1. The amount that Claimant's net income exceeds the income limit is the amount of Claimant's deductible. It is found that DHS properly determined Claimant to be eligible for Medicaid subject to a $445/month deductible.

The MA analysis must continue because the evidence also supported disability as a basis for Medicaid eligibility. 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.

It was found in the FAP benefit analysis that DHS failed to factor Claimant's disability. It is probable that DHS also failed to factor the disability in the MA determinations. Accordingly, the DHS determination of MA must be reversed due to the failure to factor disability. It should be noted that an evaluation of Medicaid based on disability does not necessarily mean that Claimant is entitled to a more beneficial determination than Medicaid subject to a $445 /month deductible; however, DHS must make an MA benefit determination based on disability to determine if it is more beneficial for Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to properly determine Claimant's FAP and MA eligibility. It is ordered that DHS perform the following actions:

(1) redetermine Claimant's FAP eligibility for [redacted]/2013 [redacted]/2013 subject to the finding that DHS failed to evaluate Claimant's disability; and
(2) redetermine Claimant's MA benefit eligibility, effective [redacted]/2013, subject to the finding that Claimant was a disabled individual.

The actions taken by DHS are **REVERSED**.

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

Date Signed: 10/16/2013

Date Mailed: 10/16/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc: [redacted]