

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

IN THE MATTER OF:



Reg. No.: 2013-64925
Issue No.: 2017 3002 2000
Case No.:
Hearing Date: October 30, 2013
County: Wayne DHS (35)

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 30, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included , Specialist.

ISSUES

The first issue is whether DHS should have evaluated Claimant's eligibility for Medicare Savings Program (MSP).

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) 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. On an unspecified date, Claimant applied for MA and FAP benefits.
2. Claimant received \$975/month in gross Retirement, Survivors, Disability Insurance (RSDI).
3. Claimant paid \$104/month for a Part B Medicare premium.
4. On , DHS denied Claimant's MA benefit application due to excess assets.

5. On an unspecified date, DHS determined Claimant to be eligible for \$56/month in FAP benefits.
6. On [REDACTED]/13, Claimant requested a hearing to dispute the MA benefit denial and FAP benefit determination.
7. On a date subsequent to [REDACTED]/13, DHS reinstated Claimant's MA benefit application because the denial was improper.

CONCLUSIONS OF LAW

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 requested a hearing, in part, to dispute a denial of MA benefits. Claimant's MA application was originally denied based on a determination that Claimant had excess assets. DHS conceded that the denial was improper and reinstated Claimant's MA benefit application. DHS failed to verify the reinstatement or that Claimant's eligibility was subsequently processed. Without proof that DHS corrected the improper denial, it is appropriate to order DHS to reinstate Claimant's MA application.

DHS only conceded the denial as far as Claimant's Medicaid eligibility. Claimant may also be potentially eligible for MSP eligibility. MSP programs offer different degrees of assistance with payment toward a client's Medicare premium and deductibles

It was not disputed that Claimant was responsible for payment of a \$104/month Medicare premium. DHS is to determine MSP countable income according to the SSI-related MA policies in BEM 500 and 530. *Id.*, p. 3. DHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income. *Id.*

It was not disputed that Claimant received \$975/month in gross RSDI income. DHS permits a \$20 disregard making Claimant's countable net income \$955. The only other factors within an MSP determination are: earned income deductions, guardianship or conservator expenses and unearned allocation to non-SSI children. It was not disputed that these factors did not apply to Claimant's MSP eligibility.

Income eligibility for MSP exists when net income is within the limits in RFT 242 or 249. *Id.* The MSP income limit for Claimant's group size is \$1293. RFT 242 (4/2013), p. 1.

Claimant's countable net income is less than the income limits for MSP eligibility. Accordingly, it is found that DHS improperly failed to approve Claimant's MSP eligibility.

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 a determination of FAP benefits. It was not disputed that DHS determined Claimant to be eligible to receive \$56/month in FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

The first budget consideration is income. It was not disputed that Claimant received \$975 in gross 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 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. Claimant had a \$104/month Medicare premium expense. Based on the above analysis, DHS was found to be responsible for payment of the premium. Following implementation of the above finding, Claimant will have no premium expense. Thus, the proper amount to budget for Claimant's medical expenses is \$0.

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 subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$827.

It was not disputed that Claimant had an average \$187.17/month housing 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 \$762 (dropping cents).

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 \$349 (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 \$478. 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 \$56, the same amount calculated by DHS.

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 FAP eligibility to be \$56/month. 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 denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA benefit application dated [REDACTED]/13;
- (2) initiate processing of Claimant's application subject to the findings that Claimant is eligible for MSP eligibility and asset-eligible for Medicaid.

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



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

Date Signed: 11/8/2013

Date Mailed: 11/8/2013

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:

