

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201341013  
Issue No.: 3000, 2026  
Case No.: [REDACTED]  
Hearing Date: May 13, 2013  
County: Wayne DHS (35)

**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 May 13, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether Claimant timely requested a hearing concerning a Food Assistance Program (FAP) benefit termination.

The second issue is whether DHS properly determined Claimant's Medical Assistance (MA) benefit 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 and his spouse were part of a two-person household.
3. Claimant received \$939/month in gross Retirement, Survivors, Disability Insurance (RSDI).
4. Claimant's spouse received \$444/month in RSDI.

5. As of 3/2013, Claimant received bi-weekly unemployment compensation (UC) of \$502/two weeks.
6. On 8/10/12, DHS initiated termination of Claimant's FAP benefit eligibility, effective 9/2013.
7. On an unspecified date, DHS determined that Claimant was eligible for Medicaid subject to a \$1423 monthly deductible.
8. On 4/4/13, Claimant requested a hearing to dispute the FAP benefit termination from 8/2012 and an MA benefit determination.

### **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 partly concerns a dispute concerning a FAP benefit termination. Prior to an analysis of whether the termination was proper, it must be determined whether Claimant timely requested a hearing.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (8/2012), p. 4. DHS verified that written notice was mailed to Claimant on 8/10/12. The notice was established to list Claimant's correct mailing address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Claimant denied receiving the written notice. Claimant offered no evidence to rebut the presumption other than a generic verbal denial. It is found that DHS properly mailed the notice of FAP benefit termination and that Claimant received the notice.

On 4/4/13, Claimant requested a hearing to dispute the FAP benefit termination. The request was submitted to DHS nearly eight months after the mailing of the corresponding Notice of Case Action. Claimant's hearing request was untimely. Thus, Claimant is not entitled to a hearing for that dispute.

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).

Claimant also requested a hearing to dispute an MA benefit determination. Specifically, Claimant objected to receiving Medicaid subject to a deductible.

It should be noted that Claimant's hearing request was not untimely concerning the MA benefit dispute because the written notice concerning MA was mailed within 90 days of Claimant's hearing request.

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 (10/2010), p. 2. It was not disputed that Claimant was a disabled and/or an aged individual. As a disabled and/or aged 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 not disputed that Claimant's gross monthly RSDI was \$939 and his spouse's gross RSDI was \$444. For SSI-related MA, generally, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 (7/2012), p. 20; DHS lists some exceptions to the general rule of counting gross RSDI. Claimant testified that he paid child support and that DHS failed to factor that his net RSDI was substantially less than his gross RSDI. Payment of child support is not an exception to counting gross RSDI income. DHS properly considered Claimant's gross RSDI in determining MA benefit eligibility.

Claimant testified that he had no other income. DHS discovered that Claimant received UC. DHS presented testimony that Claimant received \$502/two weeks in UC in 3/2013. After hearing the DHS testimony, Claimant then stated that his UC recently stopped but conceded that he received the \$502 biweekly income from 3/2013. Converting the income to a monthly amount results in UC income of \$1004/month. DHS determined Claimant's UC income as \$963/month. For purposes of this decision, the lower and more favorable to Claimant income (\$963) will be accepted as the correct income amount.

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 (COLA) (for January through March only). None of these expenses were applicable to Claimant. Claimant's group's total monthly income was \$2346.

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 two-person MA group was \$1261/month. RFT 242 (4/2012), p. 1. As Claimant's net income exceeded 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 \$500. RFT 240 (7/2007), p. 1.

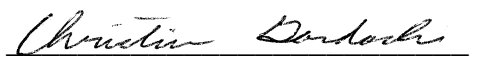
The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant had no such expenses. Subtracting the PIL and \$20 disregard from the group's income results in a monthly deductible of \$1423, the same amount as calculated by DHS.

Claimant adamantly testified that he has child support expenses that should have been factored in the MA benefit determination. Even if Claimant had verified such an obligation, the obligation is irrelevant to the MA benefit determination. It is found that DHS properly determined Claimant's MA benefit eligibility.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing concerning a FAP benefit termination, effective 9/2012. 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 eligibility for MA benefits as Medicaid subject to a \$1423/month deductible, effective 4/2013. The actions taken by DHS are AFFIRMED.

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

Date Signed: 5/21/2013

Date Mailed: 5/21/2013

**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:

