

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201310473
Issue No.: 3002; 2026
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Washtenaw DHS (20)

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, an in-person hearing was held on January 24, 2013 from Ypsilanti, Michigan. Participants included the above-named claimant. [REDACTED] appeared and testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUES

The issue is whether DHS properly determined Claimant's and her spouse's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

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 and her spouse were ongoing FAP and MA benefit recipients.
2. As unmarried individuals, Claimant and her spouse received Medicaid for being Supplemental Security Income (SSI) recipients.
3. On an unspecified date, Claimant and her spouse married.
4. On an unspecified date following the marriage, Claimant and spouse were no longer SSI recipients.

5. Claimant's spouse paid \$53.50/month in child support.
6. On 10/18/12, DHS determined Claimant's FAP benefit eligibility effective 11/2012, in part, by factoring \$50/month in child support payments.
7. On 10/18/12, DHS determined Claimant and her spouse were eligible for Medicaid, effective 11/2012, subject to respective deductibles of \$1463 and \$1513.
8. On 10/23/12, Claimant requested a hearing to dispute the FAP and MA benefit determinations.

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 to dispute a FAP benefit determination effective 11/2012. FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. The figures used in the benefit determination were discussed with Claimant.

Claimant disputed the amount of income used by DHS in the determination. It was not disputed that Claimant's RSDI was \$662/month. Claimant testified that child support expenses reduced her spouse's RSDI. For all programs, generally, the gross amount of RSDI is countable income. BEM 503 (11/2012), p. 20. Child support expenses are factored separately in the benefit determination. DHS should have factored Claimant's gross RSDI in determining FAP benefit eligibility. Based on Claimant's RSDI (\$662), Claimant's spouse's gross RSDI (\$1131) and Claimant's spouse's pension (\$281.38), DHS properly determined the group's monthly income to be \$2074.

Child support expenses were also disputed. It was not disputed that Claimant's spouse paid \$53.50/month in child support. DHS budgeted \$50/month in child support expenses. DHS acknowledged the small error in budgeting child support expenses.

Claimant also disputed the lack of medical expenses budgeted by DHS. Claimant conceded that she failed to report any medical expenses to DHS. Claimant contended that DHS should have anticipated her medical expenses after DHS terminated ongoing Medicaid for her and her spouse.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 5. Income changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.* Other changes (e.g. household members) must be reported within 10 days after the client is aware of them. *Id.*

Claimant testified that she had private insurance and Medicare Part D expenses. DHS has no way to know of such medical expenses unless reported by a client. DHS cannot be faulted for failing to budget these expenses.

Claimant also was responsible for a \$100/month Part B Medicare premium. On the same date DHS determined Claimant's FAP benefit eligibility, DHS also denied Claimant's eligibility for payment of the \$100 premium via the Medicare Savings Program (MSP). Evaluation of MSP implies that DHS had knowledge of a Medicare Part B premium expense. The consequence of an MSP denial is that Claimant is responsible for payment of the Medicare Part B premium. Even though clients are responsible for reporting expenses, DHS had sufficient knowledge of the Medicare Part B expense to factor the expense in the FAP benefit budget. It is found that DHS erred in determining Claimant's medical expenses by failing to factor a \$100/month Part B Medicare premium.

It was not disputed that DHS properly calculated a standard deduction of \$148. It was not disputed that the \$500/month housing expense factored by DHS exceeded Claimant's actual expenses. The standard utility credit of \$575 was applied by DHS. Based on the presented evidence, it is found that DHS erred in budgeting Claimant's child support and medical expenses in determining Claimant's FAP benefit eligibility. Claimant also disputed a MA benefit determination.

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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

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 (10/2011), p. 2. It was not disputed that Claimant was a disabled and/or an aged individual. As disabled persons, Claimant and her spouse 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.

For both types of MA coverage, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 (11/2012), p. 20. Claimant's RSDI (\$662), her spouse's RSDI (\$1131) and spouse's retirement income (\$281.38) should be factored. Claimant and her spouse's income for purposes of MA benefit eligibility is \$2074.

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 (for January through March only). None of the deductions apply to Claimant. Claimant's net income, for purposes of AD-Care eligibility is \$2054.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a two-person MA group is \$1261/month. RFT 242. As Claimant's net income exceeds 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 \$541. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant's spouse was responsible for a \$100/month Medicare premium. Though Claimant may have had other medical expenses, they were not reported to DHS. Subtracting the PIL, \$20 disregard and Medicare premium from the group's income results in a monthly deductible of \$1413. DHS determined a deductible of \$1513/month.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's and her spouse's FAP and MA benefit eligibility, effective 11/2012. It is ordered that DHS:

- (1) budget Claimant's spouse's child support as \$53.50/month;
- (2) budget Claimant's spouse's medical expenses of \$100/month; and

(3) supplement Claimant for FAP and MA benefits, if any, based on the improper budgeting of medical expense and child support expenses.

The actions taken by DHS are REVERSED.


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

Date Signed: February 1, 2013

Date Mailed: February 1, 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:

