

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317597
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 23, 2013
County: Wayne DHS (49)

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 January 23, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on Claimant's behalf. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 1/2013.

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 benefit recipient.
2. Claimant received gross Retirement, Survivors, Disability Insurance (RSDI) of \$781/month.
3. Claimant received an additional \$77/month in RSDI due to her status as a widow (see Exhibit 1).
4. Claimant verified medical expenses including a \$52/month part D Medicare premium.

5. On 12/8/12, DHS determined that Claimant was eligible for FAP benefits, in part, based on \$889/month in income and medical expenses of \$82/month.
6. On 12/17/12, Claimant requested a hearing to dispute the FAP 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).

Claimant requested a hearing to dispute a FAP benefit determination effective 1/2013. Claimant raised several arguments which included that: she pays someone for transportation, she lives in an area that is located far from where she buys her food, her medical conditions limit the type of food she can consume and her food costs increased while FAP benefits remained stagnant. Accepting all of Claimant's arguments as valid does nothing to determine the accuracy of Claimant's FAP benefit eligibility for 1/2013.

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. All budget factors, except two, were confirmed by Claimant as correct; the disputed factors were income and medical expenses.

It was not disputed that Claimant's gross RSDI was \$781/month. DHS budgeted the gross amount of RSDI in the FAP benefit determination. For all programs, generally, the gross amount of RSDI is countable income. BEM 503 (11/2012), p. 20. Claimant responded that she receives only \$729/month in RSDI because of a \$52 Part D Medicare deduction. Based on DHS policy, DHS is to budget the gross amount of \$781 and to consider the amount deducted for a Medicare premium as a medical expense.

Claimant acknowledged that she had a second Social Security Administration income since becoming a widow. Claimant contended the amount was \$77/month. Claimant presented a letter signed by an attorney on Congress of United States letterhead. The letter noted that Claimant receives $\$108 \times 71.5\% = \77.00 . DHS mistakenly read the letter as confirming a \$108/month income. DHS erred in the budgeting of Claimant's widow income.

It was not clear, but it appeared that DHS was budgeting the incorrect widow income for several months. Clients are allowed to request hearings within 90 days of a written

notice of case action. As DHS appeared to incorrectly budget Claimant's FAP benefit eligibility since at least the ninety days prior to her hearing request submission of 12/17/12, Claimant will be entitled to a correction of her eligibility as far back as 10/2012.

A dispute was also raised concerning medical expenses. DHS applies a \$35 deduction from all verified medical expenses. BEM 556 (10/2011), p. 3. The Notice of Case Action (Exhibit 2) included a Budget Summary showing that DHS counted \$47 in monthly expenses (\$72 before applying the \$35 copayment). Claimant noted that she paid \$52/month in monthly medical expenses. Claimant also presented DHS with a \$27 bill for various prescriptions. It was not verified how often Claimant paid for the prescriptions. Based on the presented evidence, it cannot be stated with any certainty that Claimant has more than the \$72/month in medical expenses budgeted by DHS.

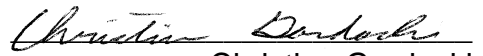
Claimant noted that she often has medical expenses involving transportation costs but there was no evidence that this was previously reported to DHS. Claimant is advised to report this information to DHS in the future so that the expenses can be calculated in her future FAP eligibility. Based on Claimant's verified medical expenses, \$47 is found to be either correct, or incorrect but favorable to Claimant.

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 eligibility for FAP benefits effective 10/2012. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility effective 10/2012 based on a widow income of \$77/month; and
- (2) supplement Claimant for any FAP benefits not previously issued because of the DHS error.

The actions taken by DHS are REVERSED.


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

Date Signed: January 24, 2013

Date Mailed: January 24, 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:

