

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

IN THE MATTER OF:



Reg. No.: 201330105
Issue No.: 3002, 2026
Case No.: [REDACTED]
Hearing Date: March 14, 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 March 14, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

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

The second issue is whether DHS properly determined Claimant's eligibility for 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 was an ongoing FAP and MA benefit recipient.
2. Claimant was part of a household that included two minor children and an adult child.
3. Claimant received monthly income of \$771 in Retirement, Survivors, Disability Insurance (RSDI) for being a disabled individual.
4. Two of Claimant's children received \$41/month in RSDI.

5. Claimant's 15 year old child is a high school student who received employment income.
6. Claimant received an unspecified amount of child support for her children in the months of 10/2012-12/2012.
7. On 1/29/13, DHS determined Claimant's ongoing FAP benefit eligibility, in part, based on a monthly income of \$1586 and categorizing Claimant as not disabled.
8. On 1/29/13, DHS determined Claimant's ongoing MA benefit eligibility, in part, based on unspecified income and without factoring Claimant's status as a disabled individual.
9. On 2/7/13, Claimant requested a hearing to dispute the MA and FAP 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, in part, to dispute a FAP benefit determination made by DHS on 1/29/13. Claimant raised a general dissatisfaction with the budget performed by DHS. BEM 556 outlines the proper procedures for calculating FAP benefit eligibility.

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. During the hearing, DHS presented a FAP budget and the figures were discussed with Claimant. The only dispute concerned income.

DHS budgeted a monthly household income of \$1586. DHS failed to justify how the \$1586/month in income was calculated. It is known that DHS counted \$771 in RSDI for Claimant; this income was conceded by Claimant as her correct RSDI income. DHS stated that the remainder of the income came from Claimant's children's RSDI, child support and employment income for Claimant's 15 year old child.

Claimant testified that two of her children received RSDI of \$41/month. This creates a total income of \$82/month in RSDI for Claimant's children. No evidence justifying this amount was presented by either side.

DHS testified that child support income from 3/2012-5/2012 was averaged to determine the proper child support income. DHS testified that Claimant's children received the following income: \$0 in 3/2012, \$386.64 for 4/2012 and \$386.64 for 5/2012. To determine FAP benefit eligibility, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (5/2012), p. 3. Averaging Claimant's children's child support income from 3/2012-5/2012 creates an average child support income of \$257.76.

DHS also stated that Claimant's 15 year old had employment income. DHS could not state whether the income was counted in the FAP budget. Bridges (the DHS database) disregards the earnings of an individual who is all of the following:

- under age 18;
- attending elementary, middle or high school including attending classes to obtain a GED; and
- living with someone who provides care or supervision.

It was not disputed that Claimant's 15 year old met all three of the above requirements to have the employment income disregarded. Thus, DHS should not have counted any employment income for the 15 year old.

Adding Claimant's RSDI (\$771), Claimant's children's RSDI (\$82) and child support (\$257.76) creates a monthly total income of \$1110.76. This amount is considerably less than the \$1586 budgeted by DHS. Accordingly, DHS erred in budgeting Claimant's household income.

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).

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.*

It was not disputed that Claimant is disabled and a caretaker to minor children. Thus, Claimant is potentially eligible for FIP-related and SSI-related categories.

It was also not disputed that DHS erred in coding Claimant as a non-disabled individual. This failure would have resulted in DHS failing to evaluate Claimant's eligibility for SSI-

related MA. Based on the presented evidence, DHS erred in determining Claimant's FAP and MA benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimants FAP and MA benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP and MA benefit eligibility, effective 2/2013, subject to the following changes:
 - a. DHS is to code Claimant as a disabled individual;
 - b. DHS is to budget Claimant's children's child support income from 10/2012-12/2012;
 - c. DHS is to budget Claimant's children's RSDI from 1/2013; and
 - d. DHS is to disregard Claimant's child's employment income;
- (2) initiate a supplement of any benefits not issued in error.

The actions taken by DHS are REVERSED.



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

Date Signed: 3/20/2013

Date Mailed: 3/20/2013

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.

201330105/CG

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:

