

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343398
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 23, 2013
County: Wayne DHS (31)

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 23, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) 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 benefit recipient.
2. Claimant was the only member of a FAP benefit group.
3. Claimant received \$972/month in Retirement, Survivors, Disability Insurance (RSDI).
4. Claimant was not responsible for a rental obligation in 4/2013.
5. On 3/4/13, DHS reduced Claimant's FAP benefit eligibility to \$16, effective 4/2013.
6. On 4/22/13, Claimant requested a hearing to dispute the FAP benefit reduction.

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 DHS action concerning FAP benefits. Claimant suggested that there was a recently denied application or a termination, but DHS provided credible evidence that the most recent action taken to Claimant's FAP eligibility was a benefit reduction, effective 4/2013.

It should be noted that Claimant's hearing request was tied to a DHS case action from 4/16/13. The 4/16/13 action concerned Claimant's MA benefit eligibility, not FAP benefit eligibility. Presumably, the DHS case action in dispute occurred on 3/4/13, the date cited by DHS on the Hearing Summary.

BEM 556 outlines the proper procedures for calculating FAP benefit eligibility. The analysis begins with a consideration of Claimant's income.

It was not disputed that Claimant received \$972/month in Retirement, Survivors, Disability Insurance (RSDI). Claimant had no other income.

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/month copayment to monthly medical expenses. Claimant testified that he incurred a medical expense on 3/23/13 and that he reported the expense to DHS. Claimant's testimony that he reported the expense to DHS was dubious. Claimant had difficulty identifying what case action that DHS took concerning his FAP benefit eligibility; this did not instill confidence in Claimant's ability to recall whether information was reported to DHS. It is also improbable that Claimant requested a hearing on 4/16/13 concerning a failure by DHS to budget a medical expense incurred only three weeks prior. It is found that DHS properly budgeted \$0 in medical expenses in determining Claimant's 4/2013 FAP benefit eligibility. Claimant can expect DHS to factor the medical expense in Claimant's

future FAP eligibility. A failure by DHS to do so should motivate Claimant to request a hearing concerning that issue.

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 also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$824.

It was not disputed that Claimant had no rental or mortgage obligation. DHS noted that Claimant was credited with paying rent prior to 4/2013, thereby giving a probable reason for the benefit reduction. 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 \$575.

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 \$163.

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 \$661. 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 \$16, the same amount calculated by DHS.

It should also be noted that Claimant made numerous other complaints about his DHS specialist. Those complaints included: a failure by the specialist to call his mother's nursing home doctor, requiring Claimant to call Washington D.C. in order to arrange an administrative hearing and processing a payment for utility assistance after Claimant said he did not want the assistance. All of Claimant's complaints appeared meritless. More importantly, they were complaints which may not be remedied by administrative hearing.

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 benefit eligibility, effective 4/2013, as \$16/month.

The actions taken by DHS are AFFIRMED.



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

Date Signed: 5/31/2013

Date Mailed: 5/31/2013

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:

