

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-43482
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Oscoda DHS (00)

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
3. The Claimant's husband receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
4. The Claimant reported countable medical expenses of [REDACTED] that were applied to the eligibility determination for [REDACTED].

5. The Claimant reported countable medical expenses of [REDACTED] that were applied to the eligibility determination for [REDACTED].
6. On [REDACTED], the Department notified the Claimant that her monthly Food Assistance Program (FAP) allotment would decrease to \$ [REDACTED].
7. The Department received the Claimant's request for a hearing on [REDACTED], protesting the amount of her monthly Food Assistance Program (FAP) allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2013).

All FAP groups receive the heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. FAP groups not eligible for the heat and utility standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. However, under the LIHEAP program, all FAP groups are eligible for the heat and utility standard. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2012), pp 14-17.

A FAP group may apply qualified medical expenses towards their eligibility determination for the medical expenses of senior, disabled, or disabled veteran member(s) that exceed \$35. BEM 554, p 1.

In the case, the Claimant's Food Assistance Program (FAP) group receives countable income in the gross monthly amount of \$ [REDACTED] an amount the Claimant does not dispute. The Claimant reported no allowable shelter expenses or child care expenses.

For the benefit period of [REDACTED], the Claimant's countable income was reduced by the standard \$ [REDACTED] deduction, and qualified medical expenses that exceeded \$ [REDACTED] by [REDACTED]. This included a one-time expense for a hospital admission in the amount of [REDACTED]. As a result, the Claimant's net income was \$0, and the Claimant received the maximum allowable Food Assistance Program (FAP) allotment.

For the benefit period of [REDACTED], the Claimant's countable income was reduced by the standard [REDACTED] deduction, and a qualified medical expenses that exceeded [REDACTED] by [REDACTED]. This included one-time expenses that had been prorated over several months.

FAP groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. The Department will allow the expense in the first benefit month the change can affect. BEM 554, p 7.

The Claimant's net income of [REDACTED] for [REDACTED] entitled the Claimant to a FAP allotment of [REDACTED]. Department of Human Services Reference Table (RFT) 260 (December 1, 2012), p 12.

If the qualified medical expense for the hospital admission in the amount of [REDACTED] had been averaged over the benefit period, the expense would not have been enough to raise the Claimant's Food Assistance Program (FAP) allotment over \$ [REDACTED]. Therefore, the Department budgeted this expense in a manner that maximized the Claimant's eligibility to receive Food Assistance Program (FAP) benefits.

The Claimant testified that she has other expenses that are not being considered when determining her eligibility for the Food Assistance Program (FAP). Department policy limits the types of expenses that can be applied towards eligibility for FAP benefits, but the Department is unable to apply expenses that the Claimant has failed to provide verification of.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly applied the Claimant's qualified medical expenses and properly determined her eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/S/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 06/04/2013

Date Mailed: 06/04/2013

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

2013-43482KS

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cc:

