

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: [REDACTED]
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Ogemaw

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 July 3, 2013, 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) and Medical Assistance (MA) 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) and Medical Assistance (MA) recipient.
2. The Department conducted a routine review of the Claimant's eligibility to receive benefits on May 17, 2013.
3. The Claimant's tax returns show that he received self-employment income in the gross yearly amount of [REDACTED] in 2012.
4. The Department determined that the Claimant has a monthly countable income of [REDACTED].

5. On May 17, 2013, the Department approved the Claimant for Medical Assistance (MA) with a deductible of [REDACTED], and approved him for Food Assistance Program (FAP) as a group of four with a monthly allotment of [REDACTED].
6. The Department received the Claimant's request for a hearing on May 30, 2013, protesting the level of his Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

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.

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). The Department of Human Services (DHS or Department) 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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).

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. Department of Human Services Bridges Eligibility Manual (BEM) 502.

██████████

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children. BEM 502.

Expenses that are not allowable include the following:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments. BEM 502.

Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502.

In this case, the Claimant is an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient. The Department conducted a routine review of the Claimant's eligibility to receive benefits on May 17, 2013.

The Claimant submitted a copy of his tax returns showing that he received self-employment income in the gross yearly amount of ██████████. The Department determined that the Claimant has a monthly countable income of ██████████ by dividing his annual gross income by 12, and reducing the gross monthly income by 25% as directed by BEM 502 where the receipts of actual expenses have not been submitted to the Department.

[REDACTED]

The Claimant argued that he had provided the Department with sufficient verification of his actual expenses, which the Department failed to apply towards his eligibility determination. The Claimant testified that he submitted the same material that was used to complete his tax returns.

However, the bank account statements and debit account records used to complete the Claimant's tax returns are not sufficient verification for the Department to apply them towards his eligibility to receive Food Assistance Program (FAP) and Medical Assistance (MA) benefits. The Department requires actual receipts for expenses incurred, and not all expenses allowable by the Internal Revenue Service (IRS) are allowable by the Michigan Department of Human Services (Department).

The Claimant argued that this Notice of Case Action indicates that he is not the caretaker of a minor dependent child.

This Administrative Law Judge finds that the Claimant is the caretaker of a minor dependent child, but that this issue is not relevant to the Department's determination of his eligibility to receive Medical Assistance (MA) and Food Assistance Program (FAP) benefits since he is receiving Medical Assistance (MA) under a category of MA that requires him to be the caretaker of a child.

The Claimant testified that he was not satisfied with the level of service he is receiving from the Department.

This category of complaint does not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS). A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. MAC R 400.903.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has established that it properly determined the Claimant's monthly income and properly applied this income to its eligibility determination for the Medical Assistance (MA) and Food Assistance Program (FAP) programs.

[REDACTED]

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 countable income and properly applied this income to his eligibility to receive Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

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

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

Date Signed: 07/10/2013

Date Mailed: 07/10/2013

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.

[Redacted]

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

KS/sw

cc:

[Redacted]