

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

IN THE MATTER OF:



Reg. No.: 20135345
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: November 15, 2012
County: Wayne DHS (57)

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 November 15, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 9/2012.

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. DHS determined Claimant was eligible for \$594/month in FAP benefits.
3. On 9/8/12, DHS determined that Claimant was eligible for \$558/month in FAP benefits.
4. On 10/11/12, Claimant requested a hearing to dispute the FAP benefit reduction.

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 Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained 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 reduction effective 9/2012. Claimant's primary complaint was that DHS reduced her benefit eligibility despite no change in her circumstances. Prior FAP benefit determinations are irrelevant to the correctness of the determination for 9/2012. As a courtesy, DHS explained that the difference was the result of a case audit which appeared to reduce Claimant's medical expenses. Despite the DHS explanation, it cannot be determined whether the 9/2012 FAP benefit eligibility decision is correct without examining the entire FAP benefit budget. 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. A budget summary of the figures used in the benefit redetermination were discussed with Claimant. All budget factors except one were either confirmed by Claimant or by DHS regulations as correct. The only factor in dispute involved Claimant's medical expenses.

It was established that DHS budgeted \$440 in medical expenses for Claimant, effective 9/2012. DHS provided evidence that this was a reduction from \$540/month in prior months; though again, the prior amount is irrelevant to the correctness of the 9/2012 determination. The only issue to determine is whether the \$440 in medical expenses was correct.

DHS provided a Medical Expenses Summary (Exhibit 1) which verified the following outpatient medical expenses: \$274.20 reported to DHS on 2/1/12, \$295.91 reported to DHS on 2/1/12, \$197.02 reported to DHS on 12/1/11 and \$105.01 reported to DHS on 10/1/11. In addition, \$65 in prescription expenses was noted, as was a monthly \$99.90 Medicare premium. Claimant could not cite any additional medical bills that she incurred that DHS failed to budget. Unfortunately, DHS provided no assistance in explaining how \$440 in medical expenses was calculated. Thus, DHS policy must be consulted.

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. BEM 554 (1/2011), p. 7. The bills verified as outpatient treatment are presumed to be one-time only expenses. The bill will also be presumed to be spread over the FAP benefit period (1/2012-12/2012) starting with the month following the report date. Taking the outpatient bill amounts and dividing them by the remaining full months of Claimant's

benefit period results in total medical expenses of \$82/month. Assuming that Claimant's prescriptions were monthly expenses, the monthly total of prescription expenses is \$65. Adding the Medicare premium expenses (\$200), with the prescription expenses (\$65) and outpatient expenses (\$82) results in a total of \$347/month in medical expenses less than what DHS was budgeting. Thus, no evidence would justify increasing Claimant's medical expenses for purposes of FAP benefit eligibility. As the medical expenses cannot be stated to be incorrect, the FAP benefit determination may not be found to be incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefit eligibility effective 9/2012. The actions taken by DHS are AFFIRMED.



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

Date Signed: 11/21/2012

Date Mailed: 11/21/2012

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

20135345/CG

P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

