

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004336
Issue No.: 2000, 3001
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED], Claimant's spouse, testified on behalf of Claimant. [REDACTED] appeared as Claimant's translator. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], manager.

ISSUES

The first issue is whether there is jurisdiction to hear Claimant's dispute of Medical Assistance (MA) eligibility.

The second issue is whether DHHS properly determined Claimant's Food Assistance Program (FAP) 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 and MA benefit recipient.
2. Claimant was a member of a 2-person household.
3. Claimant's spouse received \$620/month in gross employment income.
4. On [REDACTED], DHHS determined Claimant's FAP eligibility to be \$16/month, in part, based on \$628 in gross employment income for Claimant's spouse.

5. On [REDACTED], Claimant requested a hearing to dispute his FAP eligibility and to dispute an alleged ineligibility for MA benefits.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. DHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, concerning MA benefits. Claimant's hearing request stated that "my DHHS worker did not open" MA benefits. It was not disputed that Claimant received MA benefits as of the hearing date so it was unclear what Claimant disputed. Claimant testified that he received a notice from DHHS that his MA eligibility would stop, beginning May 2015. DHHS testimony stated that the written notice of MA eligibility termination was sent to Claimant on [REDACTED].

The jurisdiction of the hearing dated [REDACTED], is limited to the disputes of Claimant's hearing request dated [REDACTED]. Claimant's dispute was that he did not receive MA benefits; DHHS resolved the dispute by issuing MA benefits to Claimant. Claimant could not have requested a hearing on [REDACTED] to dispute a termination of MA benefits that occurred a week after he requested a hearing. During the hearing, Claimant was advised that he needs to submit another hearing request in order to dispute the MA termination beginning May 2015. Claimant's hearing request dated [REDACTED], will be dismissed concerning MA benefits.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. DHHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute the amount of his ongoing FAP eligibility. DHHS presented testimony that Claimant applied for FAP benefits in December 2014 and was determined to be eligible to receive \$16 in FAP benefits. During the hearing, undisputed DHS testimony indicated that Claimant applied for FAP benefits in December 2014. The month of December 2014 is deemed to be the benefit month in dispute.

Claimant testified that he should receive more than \$16/month in FAP benefits. Claimant could not state why he should receive more benefits. DHHS testimony noted that Claimant received more FAP benefits in the past, but that was before Claimant was approved for RSDI benefits.

To determine whether DHHS properly determined Claimant's FAP eligibility, Claimant's FAP budget must be considered. BEM 556 outlines how to determine FAP eligibility.

Claimant testified that his spouse receives \$500 in gross employment income. Claimant provided no proof of his spouse's income.

DHHS provided testimony that Claimant's spouse's income was based on the following biweekly gross pay amounts: \$320.46 on [REDACTED], and \$256.32 on [REDACTED]. DHHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (July 2013), pp. 7-8.

Claimant's spouse's gross pays average \$288.39. Multiplying the average pays by 2.15 results in \$620 in budgetable earned income. DHHS inexplicably calculated \$628 in earned income. Thus, there may be a potential error in Claimant's FAP benefit issuance; it is also possible that the FAP issuance is unaffected.

DHHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$496.

Claimant testimony conceded that DHHS properly counted \$1435 in unearned income. Adding Claimant's household's unearned income and countable employment income results in a running income total of \$1931.

DHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (November 2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHHS 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, DHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant is disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Claimant had no day care, medical, or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$154. RFT 255 (October 2014), 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 subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1777.

It was not disputed that Claimant's housing costs were \$800/month as of December 2014. DHHS credited Claimant with the standard maximum utility credit of \$553. Claimant's total shelter obligation is \$1353/month.

DHHS only credits FAP benefit groups with what DHHS 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 \$387 (dropping cents).

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 \$1390. 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 for December 2014 is found to be \$16, the same amount calculated by DHHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS resolved Claimant's original MA benefit dispute and that Claimant is not entitled to an administrative hearing for an action taken after his hearing request. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly determined Claimant's FAP eligibility to be \$16/month, effective December 2014. The actions of DHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

