

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009859
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 28, 2015
County: Oakland-District 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 28, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED] and [REDACTED] as hearing facilitators.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on 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 as a group of one and is considered a senior, disabled, or veteran (SDV) recipient.
2. On June 1, 2015, the Department received the Claimant's completed Redetermination (DHS-1010) form.
3. On June 3, 2015, the Department notified the Claimant that he was approved for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment.
4. On June 11, 2015, the Department received the Claimant's request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department will only consider the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group based on all of the following:

- Verified allowable medical expenses.
- Available information about the SDV member's medical condition and health insurance.
- Changes that can reasonably be anticipated to occur during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 8.

A FAP group is not required to, but may voluntarily report changes during the benefit period. 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, pp 8-11.

Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.
- Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.
- Prescription drugs and the postage for mail-ordered prescriptions.
- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).

- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s).
- Medicare premiums.
- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs cannot be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dtmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High Cost Cities using the rate for the current year.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it must be treated as a medical expense.
- A Medicaid deductible is allowed if the following are true.
- The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.
- Medical marijuana is not an allowable medical expense. BEM 554, pp 8-11.

The Claimant is an ongoing FAP recipient. The Claimant receives a gross monthly income of \$ [REDACTED] an amount not disputed during the hearing. On June 1, 2015, the Claimant reported an ongoing monthly medical expense of \$ [REDACTED] for a Medicare Part D premium and an expense of \$ [REDACTED] for prescription drugs and over-the-counter

medications. The Claimant's adjusted gross income of \$ [REDACTED] was determined by subtracting the \$ [REDACTED] standard deduction and his verified medical expenses over \$ [REDACTED] from his total monthly gross income. The Claimant is entitled to a \$ [REDACTED] deduction for monthly housing expenses, which was determined by adding his \$ [REDACTED] monthly housing costs to the \$ [REDACTED] standard heat and utility deduction, then subtracting 50% of his adjusted gross income.


The Claimant's net income of \$ [REDACTED] was determined by subtracting his housing deduction from his adjusted gross income. As a group of one with a net income of \$ [REDACTED] the Claimant is entitled to a \$ [REDACTED] monthly allotment of FAP benefits.

This Administrative Law Judge finds that the Department gave the Claimant credit for his medical expenses that he provided the Department with verification of the amount of his obligation and that the expenses are allowable by policy. The Claimant's medical insurance premiums are ongoing expenses and should remain in the Claimant's benefit determination budget until there is a change. The Claimant has a duty to provide the Department with verification of all medical expenses that are not ongoing on a monthly basis to receive credit for those expenses.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Claimant's monthly allotment of Food Assistance Program (FAP) benefits based on the expenses that the Department was able to verify. If the Claimant is able to provide verification of additional expenses, his eligibility for benefits may change in the future.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/30/2015**

Date Mailed: **7/30/2015**

KS/las

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

