

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-008118
Issue No.: 3001
Case No.: ██████████
Hearing Date: August 6, 2015
County: Wayne (55)

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, an in-person hearing was held on August 6, 2015, from Hamtramck, Michigan. Participants included the above-named Claimant, ██████████, Claimant's friend, appeared as Claimant's translator. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████ specialist, and ██████████, manager.

ISSUE

The issue is whether MDHHS 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 benefit recipient.
2. Claimant's monthly gross Retirement, Survivor, Disability Insurance (RSDI) was ██████████
3. MDHHS was aware that Claimant was responsible for paying ██████████/month in medical expenses.
4. Claimant had no utility obligations.

5. On May 11, 2015, Claimant requested a hearing to dispute FAP eligibility, effective May 2015.
6. On May 12, 2015, MDHHS redetermined Claimant's FAP eligibility, effective June 2015, in part, based on the following: █████ in gross RSDI, \$0 medical expenses, and no utility obligations.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a \$16 determination of FAP benefits, effective May 2015. Claimant testified the amount caused a reduction in FAP on which he could not survive.

MDHHS testimony alleged that Claimant's FAP eligibility was reduced due solely to a change in budgeted utility obligations. It is known that MDHHS policy previously authorized FAP budget utility credits to all FAP recipients, no matter which utilities clients were responsible to pay. It is also known that current policy only allows utility credits for utilities that recipients are responsible to pay. Many clients requested hearings to dispute FAP benefit determinations affected by the policy change. Though the MDHHS explanation for the FAP benefit reduction was credible, a change in policy or utility obligations was not verified to be the exclusive cause for a FAP benefit reduction.

During the hearing, MDHHS presented a Notice of Case Action (Exhibits 1-5) dated May 12, 2015. The Notice of Case Action stated that Claimant was eligible to receive █████ in FAP benefits, effective June 2015. The presented Notice of Case Action is not what prompted Claimant's hearing request (Claimant's hearing request was submitted one day before the notice was issued). It is presumed that the budget summary for June 2015 mirrors the FAP budget factors that prompted Claimant's hearing request because the FAP issuance of █████ was unchanged. Thus, the budget summary for Claimant's June 2015 FAP eligibility was used as a basis to determine whether MDHHS correctly calculated Claimant's FAP eligibility, effective May 2015.

For the sake of thoroughness, all FAP benefit determination factors were discussed during the hearing. Claimant raised disputes concerning unearned income, medical expenses, and utilities.

The presented budget summary stated that MDDHS budgeted Claimant's income to be [REDACTED]. Claimant testified that he received only [REDACTED] month.

It was not disputed that Claimant's only income came from RSDI. For all programs, Bridges counts the gross RSDI benefit amount as unearned income. BEM 503 (July 2014), p. 28.

MDDHS presented an SOLQ (Exhibits 6-8). An SOLQ is a document that MDDHS obtained from a data exchange with Social Security Administration. Claimant's SOLQ listed that Claimant's gross RSDI is [REDACTED]. Claimant presented no documentary evidence concerning his income. The SOLQ is found to be a more reliable indicator of Claimant's gross income than Claimant's unverified testimony.

Claimant's income is found to be [REDACTED]/month. Though MDHHS erred in budgeting Claimant's income, the error was in Claimant's favor. It is found that MDHHS did not under-issue FAP benefits to Claimant based on improper budgeting of Claimant's income.

The presented budget summary stated that MDDHS factored \$0 in medical expenses. During the hearing, MDHHS was asked to provide Claimant's most recent written statement concerning medical expenses. MDHHS provided a Redetermination (Exhibits 9-14) signed by Claimant on April 27, 2015. Claimant stated on the Redetermination that he did not have any medical expenses.

Claimant testimony alleged that he pays various medical expenses when he goes to a physician. Claimant testimony also alleged that he has transportation costs associated with medical expenses. Claimant brought no documentation to support his testimony.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (4/2015), p. 11. Presented evidence was highly suggestive that Claimant never reported to MDHHS that he had medical expenses. Claimant's failure to report medical expenses to MDHHS is indicative that MDHHS properly excluded medical expenses in Claimant's budget. This finding is inconsistent with one notable medical expense which was verified by MDHHS.

Claimant's SOLQ verified that Claimant paid [REDACTED] for a Part B Medicare premium (see Exhibit 6). By relying on the SOLQ to determine Claimant's income, MDHHS either was aware or should have been aware of Claimant's monthly medical expense of [REDACTED]. Thus, it is of no matter that Claimant failed to list the expense on the Redetermination. MDHHS will be ordered to redetermine Claimant's FAP eligibility by factoring the cost of Claimant's Medicare premium.

The presented budget summary stated that MDDHS credited Claimant with no utility obligations. Claimant testified that he paid [REDACTED] for rent and utilities.

A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments (MDHHS) must use the h/u standard. *Id.*, p. 16. This policy implies that a utility obligation must be separate from a rental obligation. Claimant conceded that all of his utilities were included with his rental obligation. Accordingly, MDHHS properly did not factor any utility obligations in Claimant's FAP budget.

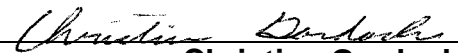
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS did not over-budget Claimant's income. It is further found that MDHHS properly factored Claimant's utility obligations. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Claimant's FAP eligibility, effective May 2015. It is ordered that MDHHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective May 2015, subject to the finding that MDHHS failed to factor ████████ in medical expenses; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/7/2015**

Date Mailed: **8/7/2015**

GC/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]