

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-013844
Issue No.: 2001; 3008
Agency Case No.: [REDACTED]
Hearing Date: October 21, 2015
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on October 21, 2015, from Warren, Michigan. Petitioner represented herself. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of \$ [REDACTED] in monthly FAP benefits and MA subject to a \$ [REDACTED] monthly deductible (Exhibits H and J).
2. Petitioner is the sole member of her FAP group.
3. Petitioner is over age [REDACTED] lives in Macomb County, and is not married.
4. Petitioner receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$ [REDACTED] (Exhibit D) and \$ [REDACTED] in gross monthly pension payments (Exhibit E).

5. The Social Security Administration (SSA) deducts \$ [REDACTED] from Petitioner's RSDI benefits to pay her Part B Medicare premium (Exhibit D).
6. Petitioner pays \$ [REDACTED] in monthly rent.
7. On July 27, 2015, Petitioner filed a hearing request disputing her FAP calculation and her MA coverage (Exhibit A).

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).

Petitioner requested a hearing disputing the calculation of her FAP benefits and concerning her MA coverage.

FAP Benefits

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.

At the hearing, the FAP net income budget for October 2015 ongoing used by the Department in calculating Petitioner's \$ [REDACTED] monthly FAP allotment (Exhibit F) was reviewed with Petitioner. The budget showed gross monthly unearned income of \$ [REDACTED] which is the sum of Petitioner's gross monthly RSDI and pension income of \$ [REDACTED] and \$ [REDACTED] respectively (Exhibits D and E).

Because Petitioner is over age [REDACTED] she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (October 2015), pp 1-2. FAP groups with one SDV member and no earned income are eligible for the following deductions from the group's total income:

- Standard deduction of \$154.00.
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Verified, out-of-pocket medical expenses for the SDV member that exceed \$35.00.

BEM 556 (July 2013), pp. 3-5; BEM 554 (October 2015), p. 1; RFT 255 (October 2014), p. 1.

The budget showed the \$ [REDACTED] standard deduction applicable to Petitioner's case. Petitioner confirmed that she had no day care or child support expenses, as shown on the budget.

An SDV member's allowable out-of-pocket medical expenses over \$ [REDACTED] that are not overdue are valid deductions to the member's FAP budget. BEM 554, p. 8. The expenses must be incurred, or reasonably expected to be incurred, during the Petitioner's benefit period. BEM 554, pp. 8-9. In this case, Petitioner's FAP certification period runs from January 5, 2015, to December 31, 2015. The budget shows a medical expense deduction of \$ [REDACTED] which was based on the sum of Petitioner's \$ [REDACTED] Medicare Part B premium and medical expenses she submitted in February 2015, less the \$ [REDACTED] threshold. Petitioner acknowledged that she had not been able to submit additional documentation of her medical expenses to the Department. Therefore, the medical expense deduction shown on the budget was properly calculated in light of the information available to the Department.

The final deduction available in calculating FAP benefits is the excess shelter deduction, which is based on (i) monthly shelter expenses and (ii) the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. Petitioner confirmed that her monthly rent was \$ [REDACTED] as shown on the excess shelter deduction. (Exhibit F, p. 3). Petitioner received the \$ [REDACTED] mandatory heat and utility standard, the most favorable utility standard available to a client beginning October 1, 2015. BEM 554, pp. 14-15; RFT 255 (October 2015), p. 1. Based on Petitioner's \$ [REDACTED] monthly rent and the \$ [REDACTED] utility standard, Petitioner's excess shelter deduction was properly calculated at \$ [REDACTED] BEM 556, pp. 4-5.

When Petitioner's gross income of \$ [REDACTED] is reduced by the \$ [REDACTED] standard deduction, the \$ [REDACTED] medical expense deduction, and the \$ [REDACTED] excess shelter deduction, her net income is \$ [REDACTED]. Based on a FAP group size of one and net income of \$ [REDACTED] Petitioner was eligible for gross monthly FAP benefits of \$ [REDACTED] for October 2015 ongoing. RFT 260 (October 2015), p. 10.

A review of the information used by the Department to calculate Petitioner's FAP benefits in July 2015, when Petitioner requested a hearing concerning her FAP allotment, shows that the only difference in the figures used was in the applicable heat and utility standard, which was \$ [REDACTED] prior to October 2015 (See Exhibit C). When the \$ [REDACTED] utility standard is applied to Petitioner's FAP net income budget, her net income is \$ [REDACTED]. See BEM 556, pp. 1-7. Based on net income of \$ [REDACTED] and a group size of one, Petitioner remained eligible for only \$ [REDACTED] in monthly FAP benefits for July 2015 ongoing. RFT 260, p. 10.

Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's monthly FAP benefits.

MA Coverage

The 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner was concerned about her monthly deductible amount, which the Department established was \$ [REDACTED] effective April 1, 2015, and whether she continued to be an MA recipient.

The Department presented eligibility summaries showing that Petitioner was an ongoing MA recipient under the Group 2 SSI-related (G2S) MA category and her coverage was subject to a monthly \$ [REDACTED] deductible (Exhibits H and J). Therefore, the Department established that Petitioner's MA had not closed.

Petitioner, who is over age [REDACTED] is eligible for SSI-related MA. BEM 105 (October 2014), p. 1. In determining the SSI-related MA coverage she is eligible for, the Department must determine her MA group's net income for MA purposes. The Department begins by considering the gross monthly income the group receives, which includes gross RSDI and pension income. BEM 503 (July 2015), pp. 27-28; BEM 530 (January 2014), p. 2. Petitioner's net income is calculated by reducing her gross unearned income by a \$ [REDACTED] disregard. BEM 541 (January 2015), p. 3. Petitioner's gross monthly RSDI income and pension income totals \$ [REDACTED] reduced by the \$ [REDACTED] disregard results in net monthly income of \$ [REDACTED]. Petitioner's net monthly income exceeds the \$ [REDACTED] limit for Ad-Care eligibility, the SSI-related MA category that provides for full-coverage MA. BEM 163 (July 2013), p. 1; RFT 242 (May 2015), p. 1.

Clients who are ineligible for full-coverage MA coverage because of excess income are eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's shelter area and fiscal group size. BEM 105, p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Macomb County, is \$ [REDACTED]. RFT 200 (December 2013), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$ [REDACTED] she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$ [REDACTED]. BEM 545 (January 2015), p. 2.

In this case, the Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible, which was reviewed with Petitioner at the hearing (Exhibit I). As discussed above, Petitioner's net income for MA purposes is \$ [REDACTED]. Net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544, pp. 1-3. Because Petitioner is responsible for the \$ [REDACTED] Part B Medicare premium, the Department properly deducted this expense as an allowable needs expense. Petitioner confirmed that she had no other health insurance expenses. Because Petitioner did not reside in adult foster care or home for the aged, her only allowable expense was the Part B Medicare premium. When Petitioner's net income is reduced by this premium, her countable income is \$ [REDACTED] as shown on the budget.

Because Petitioner's countable income of \$ [REDACTED] exceeded the applicable \$ [REDACTED] PIL by \$ [REDACTED] the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA coverage subject to a monthly \$ [REDACTED] deductible.

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 Petitioner's MA eligibility and when it calculated her FAP benefits.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/23/2015**

ACE/jaf

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:

