

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-015459
Issue No.: 2001;3008
Agency Case No.: ██████████
Hearing Date: October 22, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on October 22, 2015, from Detroit, Michigan. Petitioner appeared for the hearing with her sister, ██████████ and represented herself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits and determine that she was eligible for Medical Assistance (MA) benefits with a monthly deductible?

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 was an ongoing recipient of FAP and MA benefits.
2. Petitioner was approved for FAP benefits in the amount of \$16 monthly. (Exhibit D)
3. Petitioner was previously receiving MA benefits under the Healthy Michigan Plan (HMP). (Exhibit D)
4. In connection with a redetermination, Petitioner's MA eligibility was reviewed.
5. On June 25, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective June 1, 2015, she was eligible for

MA under a deductible based program with the amount of her monthly deductible being \$814. (Exhibit A)

6. On August 19, 2015, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and MA 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).

FAP

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.

In this case, Petitioner requested a hearing disputing the Department's calculation of her FAP benefits. The Department presented the FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit E).

All countable earned and unearned income available to the client must be considered in determining Petitioner's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. The Department considers the gross amount of money earned from Retirement Survivors, and Disability Insurance (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2015), pp. 31-32. The Department concluded that Petitioner had unearned income of \$ [REDACTED] which came from her monthly RSDI benefit. The Department presented a SOLQ in support of its testimony and Petitioner confirmed the amount relied on by the Department. (Exhibit C). Therefore, the Department properly calculated Petitioner's gross unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.

- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that she had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her confirmed two-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Petitioner's excess shelter deduction, the budget shows that the Department properly considered monthly rent of \$371, the \$124 non-heat electric standard and the \$34 telephone standard. The Department stated that Petitioner was not eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Petitioner confirmed that she is not responsible for heating, cooling, or utility expenses other than non-heat electric and telephone expenses which the Department properly considered. Although Petitioner stated that her monthly rent had increased to [REDACTED], Petitioner confirmed that she did not provide the Department with her increased rental expenses prior to the budget being completed. A review of the excess shelter deduction budget and Department policy shows that the Department properly excluded the \$553 h/u standard and determined that calculated the excess shelter deduction. BEM 556, pp. 4-5.

After further review, the Department properly reduced Petitioner's gross income of [REDACTED] by the \$154 standard deduction resulting in monthly net income of [REDACTED]. Based on net income of [REDACTED] and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 19; See Also BEM 213 (July 2014); RFT 250 (October 2014).

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 calculated Petitioner's FAP benefits.

MA

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.

In this case, Petitioner requested a hearing disputing the Department's actions concerning her MA benefits. At the hearing, the Department stated that prior to Petitioner's redetermination, she was receiving MA under the HMP. The Department testified that Petitioner's MA eligibility was reviewed and that she was transferred to the G2C MA program with a monthly deductible of [REDACTED], effective June 1, 2015. (Exhibit A; Exhibit B; Exhibit D).

Additionally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 135 (January 2015), p 1; BEM 544 (July 2013), p 1; BEM 545(January 2015); RFT 200 (December 2013);RFT 240 (December 2013), p 1. The monthly PIL for Petitioner's one person fiscal group living in Wayne County is \$375 per month. BEM 211 (January 2015), pp.5-6;RFT 200, p 1; RFT 240, p 1.

A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (January 201); BEM 536 (January 2014). In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. BEM 211, p.5. A multi-step process is utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p 1.

The Department presented a G2-FIP Related Net Income Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's monthly deductible. (Exhibit B). In this case, the Department stated that Petitioner's starting income for MA purposes was \$ [REDACTED], which consisted of RSDI benefits. (Exhibit C).

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp.1-5. In this case, because Petitioner had one child under age 18 living in the home, the prorated divisor is 3.9. BEM 536, pp. 3-5.

After further review of the MA budget and based on the foregoing information, the Department calculated Petitioner's total net income of [REDACTED] in accordance with Department policy. See BEM 536, pp. 1-7. Because Petitioner's net income of [REDACTED] exceeds [REDACTED], the applicable PIL by [REDACTED], the Department calculated Petitioner's [REDACTED] monthly deductible in accordance with Department policy.

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 calculated Petitioner's monthly deductible.

DECISION AND ORDER

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



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/30/2015**

Date Mailed: **10/30/2015**

ZB / tlf

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]