

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

MAHS Reg. No.: 15-016338
Issue No.: 3001 2001
Agency Case No.: ██████████
Hearing Date: October 29, 2015
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 29, 2015, from Detroit, Michigan. Petitioner did not appear and was represented by her son, ██████████. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, specialist, and ██████████, supervisor.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner'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. Petitioner was an ongoing Medicaid and FAP benefit recipient.
2. Petitioner was the only member of her FAP and MA benefit group.
3. Petitioner had monthly Retirement, Survivor, Disability Insurance (RSDI) income of ██████████ per month.
4. Petitioner's son reported no more than ██████████ in medical expenses to MDHHS.

5. Petitioner did not report a heat obligation to MDHHS.
6. On September 8, 2015, MDHHS determined Petitioner was eligible to receive \$16/month in FAP benefits, effective October 2015, in part, based on \$1,585 in income, no heat obligation, and [REDACTED] in medical expenses.
7. On September 8, 2015, MDHHS determined Petitioner was eligible for Medicaid subject to a [REDACTED] monthly deductible, effective October 2015.
8. On September 9, 2015, Petitioner's son requested a hearing to dispute his mother's FAP and MA eligibility for October 2015.

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).

Petitioner requested a hearing, in part, to dispute FAP eligibility, effective October 2015. Petitioner's authorized hearing representative (AHR), also Petitioner's son, noted that MDHHS drastically reduced his mother's eligibility. MDHHS responded that a medical expense was improperly budgeted causing Petitioner to receive FAP benefits for which she was not entitled; after the medical expense was removed, Petitioner's FAP eligibility decreased. The MDHHS explanation was reasonable, however, Petitioner's FAP eligibility cannot be determined to be correct without analyzing the entire FAP budget. MDHHS presented a FAP budget (Exhibits 6-8) for October 2015. BEM 556 provides details on how FAP eligibility is calculated.

MDHHS factored [REDACTED] in unearned income for Petitioner. Petitioner's AHR conceded the amount accurately reflected his mother's income.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS 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 Petitioner was disabled and/or aged.

Verified medical expenses for SDV groups (subject to a [REDACTED] copayment), child support and day care expenses are subtracted from a client's monthly countable income. Petitioner's AHR did not allege that Petitioner had child care or dependent care expenses. Petitioner's AHR alleged his mother had medical expenses related to transportation. Petitioner's AHR also indicated that his mother will have substantial medical expenses if she does not have Medicaid.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. MDHHS cannot credit Petitioner for medical expenses which have not been reported. Petitioner's AHR's testimony conceded that he did not report any ongoing medical expenses to MDHHS. MDHHS also cannot credit Petitioner for medical expenses which she has yet to verify (see BEM 554 (October 2015), p. 8). It was not disputed that Petitioner has not yet submitted verification of medical expenses other than the medical expenses already budgeted by MDHHS.

It is found that MDHHS properly budgeted a [REDACTED] medical expense credit for Petitioner. Subtracting Petitioner's medical expense credit from her income results in a running income total of [REDACTED].

Petitioner's FAP benefit group receives a standard deduction of [REDACTED] RFT 255 (October 2015), 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 [REDACTED].

It was not disputed that Petitioner's monthly housing costs were [REDACTED]. Petitioner's utility obligation was disputed.

MDHHS credited Petitioner for responsibility of water and telephone. Petitioner's AHR's testimony alleged his mother is responsible for payment of heat. Petitioner's AHR testimony conceded he did not inform MDHHS of his mother's obligation to pay heat. Because Petitioner did not report a heat obligation to MDHHS, Petitioner is not entitled to credit for the obligation. Petitioner's water and telephone obligations equate to respective [REDACTED] and [REDACTED] budget credits. Petitioner's total shelter obligation is found to be [REDACTED].

MDHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$[REDACTED] (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$1,164. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income,

Petitioner's proper FAP benefit issuance is found to be \$16, the same amount calculated by MDHHS.

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR requested a hearing, in part, to dispute a determination reduction of Petitioner's MA eligibility. Petitioner's AHR specifically objected that his mother was previously eligible for Medicaid before MDHHS reduced her eligibility to Medicaid subject to a [REDACTED] deductible. MDHHS testimony alleged that an improperly budgeted medical expense also caused MA eligibility to which Petitioner was not entitled. A full budget analysis is required to determine if Petitioner's MA eligibility was properly calculated.

It was not disputed that Petitioner was disabled and/or aged. As a disabled and/or aged individual, Petitioner is potentially eligible to receive Medicaid through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

It was not disputed that Petitioner received \$ [REDACTED] in gross monthly RSDI. For purposes of AD-Care eligibility, MDHHS allows a [REDACTED] income disregard. Petitioner's net unearned income, for purposes of AD-Care eligibility is found to be [REDACTED].

MDHHS gives budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner had a guardian, though Petitioner's AHR conceded he did not report any guardianship expenses to MDHHS. Thus, Petitioner's net income, for purposes of AD-Care eligibility is found to be [REDACTED].

Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (October 2010), p. 1. As of April 2015, the net income limit for AD-Care for a one-person MA group is [REDACTED] per month. RFT 242 (April 2015), p. 1. Because Petitioner's countable income exceeded the AD-Care income limit, it is found that MDHHS properly determined Petitioner to be ineligible for AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal

group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (October 2014), p. 11. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

The G2S budget allows a [REDACTED] disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. It was not disputed that Petitioner had a [REDACTED] monthly expense for Medicare.

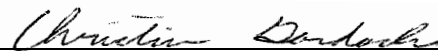
The deductible is calculated by subtracting the protected income level (PIL) from the MA net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is [REDACTED] RFT 240 (December 2013), p. 1.

Subtracting the PIL, [REDACTED] disregard, and insurance premium from Petitioner's group's income results in a monthly deductible of [REDACTED], the same amount calculated by MDHHS (see Exhibit 5). It is found that MDHHS properly determined Petitioner's MA eligibility.

Despite findings that MDHHS properly determined Petitioner's FAP and MA eligibility, Petitioner has some options to affect future FAP and MA benefit eligibility. Concerning MA eligibility, Petitioner can receive ongoing credit for personal care expenses. Such an expense is justified if Petitioner paid her son for the care he provides. If the payment to her son was for the amount of her deductible, Petitioner could automatically meet her monthly deductible without submitting other medical expenses. The expense would also positively affected Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP and MA eligibility, effective October 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **11/2/2015**

Date Mailed: **11/2/2015**

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