

**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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MAHS Reg. No.: 15-017315
Issue No.: 1001; 3008; 7002
Agency Case No.: ██████████
Hearing Date: November 12, 2015
County: Wayne-District 17

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, a telephone hearing was held on November 12, 2015, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator.

ISSUE

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

Did the Department properly provide Petitioner with Medicaid (MA) coverage?

Did the Department properly process Petitioner's Supplement SSI Payment (SSP) case?

FINDINGS OF FACT

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

1. On August 3, 2015, Petitioner applied for MA and FAP benefits (Exhibits E and 2).
2. Petitioner is the only member of her FAP group and receives monthly Supplemental Security Income (SSI).
3. On August 6, 2015, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FAP benefits of \$27 for August 3, 2015 to

August 31, 2015 and for monthly FAP benefits of \$29 for September 1, 2015 ongoing (Exhibit F).

4. On August 24, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were decreasing to \$16 monthly effective October 1, 2015 (Exhibit D).
5. On September 16, 2015, Petitioner filed a request for hearing disputing the Department's actions concerning her FAP and MA cases and her "quarterly payments."

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 concerning her MA coverage, her FAP allotment and her "quarterly payment." Although it was not clear at the hearing, it appears that Petitioner's hearing request regarding "quarterly payments" concerns the State SSI Payment (SSP). Therefore, this Hearing Decision will address Petitioner's MA, FAP and SSP cases.

FAP Amount

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.

Petitioner applied for FAP benefits on August 3, 2015 and was approved for monthly FAP benefits of \$29 effective September 1, 2015 ongoing and for pro-rated FAP benefits of \$27 for the period between August 3, 2015 and August 31, 2015 (Exhibits E and 2). Monthly FAP benefits were reduced to \$16 effective October 1, 2015 (Exhibit D). The Department presented FAP net income budgets for September 2015 (Exhibit G) and October 2015 ongoing (Exhibit H) which were reviewed with Petitioner at the hearing.

The September 2015 budget showed unearned income of \$889 and the October 2015 ongoing budget showed unearned income of \$903, an increase of \$14 over the income shown on the September 2015 budget. The evidence presented showed that the Department approved Petitioner for quarterly \$42 SSP benefits beginning October 2015

(Exhibit A, pp. 20-21). Under Department policy this quarterly payment would not be paid until December 2015. BEM 660 (July 2013), pp. 1-2. However, for FAP purposes, the Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503 (July 2015), p. 33. Therefore, the \$14 increase showing in the October 2015 budget is due to the \$14 in SSP benefits applied to the month, as shown in the eligibility summary (Exhibit A, pp. 20-21), which the Department properly added to Petitioner's unearned income.

However, the Department was unable to explain the basis for the \$889 in unearned income in the budgets. The SOLQ shows that Petitioner received \$733 in monthly SSI beginning August 2015. Petitioner explained that, while she was in California, and while she was in Michigan but still anticipating returning to California, she received \$889 in monthly SSI benefits, but that her monthly SSI benefits had decreased to \$733. A review of the SOLQ corroborates Petitioner's testimony, showing that Petitioner had received a base \$733 in monthly SSI benefits beginning January 1, 2015, with a monthly supplemental payment of \$156.40, but the supplement was no longer paid as of August 2015. Therefore, the Department did not act in accordance with Department policy when it calculated Petitioner's FAP benefits based on gross monthly unearned income of \$889 or \$903.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner receives SSI, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (July 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.
- 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.

BEM 554 (October 2014), p. 1; RFT 255 (October 2014), p. 1.

Both budgets showed the \$154 standard deduction applicable to Petitioner's case. Petitioner confirmed that she had no day care or child support expenses, as shown on the budgets. An SDV member's allowable out-of-pocket medical expenses over \$35 that are not overdue are valid deductions to the member's FAP budget. BEM 554, p. 8. The medical expenses must be incurred, or reasonably expected to be incurred, during the client's benefit period. BEM 554, pp. 8-9. Although Petitioner testified that she submitted medical bills to the Department, she indicated in her application that she did not have any medical bills (Exhibit 2, p. 10). The Department denied receiving any medical bills from Petitioner. Under the facts presented, Petitioner has failed to

establish that she submitted any current medical expenses to the Department. As such, the budgets properly reflect no medical expense deduction.

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 (July 2013), pp. 4-5. Petitioner claimed that she was responsible for monthly rent and had submitted verification of the same to the Department. She provided a letter from Progress Transitional Nonprofit showed that she was a resident of the program from February 3, 2015 to August 16, 2015 with monthly rent of \$350 (Exhibit 1). However, the letter is dated September 15, 2015 and therefore was not provided to the Department at the time of her August 3, 2015 application. Further, in her August 3, 2015 application, Petitioner indicated that she was homeless and that she had no housing expenses or utility expenses (Exhibit 2, p. 9; Exhibit E, p. 8). Therefore, under the facts presented to the Department at the time of her application, the Department properly concluded that Petitioner did not have any housing expenses.

Because Petitioner indicated in her application that she was not responsible for utility expenses and had not received a home heating credit or an energy-related State Emergency Relief payment or a Michigan Energy Assistance Program payment in the application month or within the past 12 months prior, the Department properly concluded that she was not eligible for the heat and utility standard that was applied in the September 2015 FAP excess shelter deduction budget and removed in the October 2015 ongoing FAP excess shelter deduction budget. See BEM 554, pp. 14-20.

The Department testified that it sent Petitioner a shelter verification form on September 15, 2015 when she indicated that she had shelter expenses, and it acknowledged receiving a completed shelter verification form on September 25, 2015 showing \$400 in monthly rent. For non-income changes, the Department must take required case actions in time to affect the benefit month that occurs 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2015), p. 6. Because the Department received verification of shelter expenses on September 25, 2015, this reported change is budgeted into Petitioner's October 2015 ongoing FAP net income budget. It was unclear from the evidence presented what utilities Petitioner is responsible for, but the Department must apply the appropriate utility standard in calculating the excess shelter deduction for October 1, 2015 ongoing.

Therefore, Petitioner's recalculated budgets for August 3, 2015 ongoing must correct the unearned income received and the budget for October 2015 ongoing must update the shelter expenses and utility expenses to calculate the applicable excess shelter deduction for that period.

SSP Benefits

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

SSP is quarterly payment based on living arrangement made by the State to SSI recipients. BEM 660 (July 2013), pp 1-2. SSP payments are made for only those months the SSI recipient received a regular first of the month federal benefit. BEM 660, p. 1; BAM 600 (April 2015), pp. 30-31. These SSI payments are shown on the Single Online Query (SOLQ) as a “**recurring payment dated the first of the month.**” BEM 660, p. 1. Benefits are issued quarterly and paid the last month of each quarter. BEM 660, pp. 1-2.

The SOLQ in this case, which shows the actions by the Social Security Administration (SSA) to Petitioner’s Social Security benefits, show that Petitioner had received ongoing recurring SSI payments through July 2015, but no SSI payment was made to Petitioner on August 1, 2015. On August 2, 2015, a regular daily payment of \$733 was made, followed by a \$733 “recurring payment dated the first of the month” beginning September 1, 2015 (Exhibit C). Therefore, Petitioner did not receive a regular first of the month federal benefit in August 2015 but she did for September 2015 ongoing. As such, she was eligible for SSP for September 2015 ongoing.

The eligibility summary provided by the Department (Exhibit A, p. 20) shows that Petitioner did not receive SSP for September 2015, during which time her case was “closed” but she was authorized for SSP for October 2015 ongoing. Petitioner is advised that, under Department policy, she should receive the SSP payment for October to December 2015 in December 2015. However, because the Department failed to authorize payment for SSP for September 2015, the Department did not act in accordance with Department policy in processing Petitioner’s SSP case.

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.

At the hearing, Petitioner testified that she had received notice from the Department that she was approved for MA benefits but her providers kept informing her that she did not have any coverage. The Department did not address the issue concerning Petitioner’s MA case in its hearing packet but testified at the hearing that its system showed that Petitioner had active MA coverage from August 1, 2015 ongoing and provided a Medicaid Eligibility printout from its system (Exhibit B) to support its position. The

Medicaid Eligibility shows that Petitioner has received ongoing full MA coverage under programs for the disabled under case no. 102463111. An eligibility summary also provided by the Department (Exhibit A, pp. 16-18) shows that Petitioner was *denied* MA-SSI (Medicaid for recipients of federal SSI) under case no. 102463111 from August 2015 to October 2015 but was approved for November 1, 2015 ongoing.

A client is entitled to coverage under the most beneficial MA program she qualifies for, which is the category that results in eligibility or the least amount of excess income. BEM 105 (October 2014), p. 2. Michigan residents who receive SSI are automatically eligible for MA for SSI recipients (or MA-SSI). BEM 150 (April 2015), p. 1. MA for persons who are disabled but who do not receive SSI are considered for SSI-related MA in the order listed in BEM 105, p. 4.

The SOLQ provided in this case (Exhibit C) shows that Petitioner is an SSI recipient. As such, she is eligible for MA-SSI. The eligibility summary (Exhibit A) shows that she was denied MA coverage for SSI-recipients from August 2015 through October 2015. Because Petitioner was an SSI recipient during this period, the Department did not act in accordance with Department policy when it denied Petitioner MA-SSI coverage between August 2015 and October 2015.

It is further noted that, while the Medicaid eligibility summary (Exhibit B) shows that Petitioner has received MA for disabled persons, or SSI-related MA, since May 2014, there are several concerns raised by this document. First, Petitioner testified that her providers are advising her that she has no coverage, which is consistent with the information on the eligibility summary (Exhibit A). Also, the two MA programs shown in Exhibits A and B are under separate case numbers, which raises the issue of what case number her coverage is tied to. Finally, the Medicaid eligibility summary (Exhibit B) shows SSI-related MA coverage since May 2014, but Petitioner testified that she was in California for two years until February 2015 and, as such, did not reside in Michigan in May 2014. All these facts call to question whether Petitioner is receiving MA under a disabled persons category as shown on Exhibit B.

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 did not act in accordance with Department policy when it (i) calculated Petitioner's FAP benefits, (ii) determined her SSP eligibility, and (iii) denied her MA coverage for SSI recipients.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP budget for August 3, 2015 ongoing;
2. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from August 3, 2015 ongoing;
3. Notify Petitioner in writing of the FAP amount;
4. Activate MA coverage for SSI recipients for Petitioner effective August 1, 2015 ongoing; and
5. Issue supplements to Petitioner for SSP benefits she was eligible to receive for September 2015.



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

Date Signed: **11/20/2015**

Date Mailed: **11/20/2015**

ACE / 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;

