

**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.: 15-020640
Issue No.: 2001; 3008
Agency Case No.: [REDACTED]
Hearing Date: December 21, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

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 December 21, 2015, from Detroit, Michigan. Petitioner appeared and represented himself. His daughter, [REDACTED], and his step-daughter, [REDACTED], appeared and testified on his behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly recalculate Petitioner's Food Assistance Program (FAP) budget to include his wife as a FAP group member?

Did the Department properly process the Medicaid (MA) eligibility for Petitioner and his wife and find them each eligible for MA subject to 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 and his wife are married and live together.
2. Petitioner and his wife were each receiving FAP and MA benefits on separate cases.

3. On [REDACTED], Petitioner's wife reapplied for FAP and MA benefits after her cases closed effective [REDACTED], based on a failure to submit a completed redetermination.
4. In processing Petitioner's wife's application, the Department became aware that Petitioner and his wife were married and living together and put the two in the same FAP and MA groups.
5. On [REDACTED], the Department sent Petitioner (1) a Notice of Case Action notifying him that effective [REDACTED] his FAP group size increased to two and his FAP benefits decreased to \$16 (Exhibit A), and (2) a Health Care Coverage Determination Notice notifying him that effective [REDACTED], his wife was eligible for MA with a monthly \$1474 monthly deductible, and effective [REDACTED] he was eligible for MA with a \$1474 monthly deductible (Exhibit B).
6. On [REDACTED], Petitioner filed a request for hearing disputing the Department's actions concerning his FAP and MA cases.

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).

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.

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, the Department explained that, after Petitioner's wife's case closed due to failure to submit a completed redetermination and she completed an MA and FAP application on [REDACTED], it became aware that Petitioner and his wife were

married and living in the same household. Therefore, it processed Petitioner's wife application as a member add request and added the wife to Petitioner's FAP and MA cases with the result that Petitioner's monthly FAP benefits decreased to \$16 and Petitioner and his wife became eligible for MA subject to a monthly \$1474 deductible. Petitioner requested a hearing to dispute the Department's actions concerning his FAP and MA cases.

Spouses who are legally married and live together must be in the same FAP group. BEM 212 (October 2015), p. 1. To determine income eligibility for SSI-related MA categories, which are categories available to blind, disabled, or aged (over age 65) individuals, spouses are in the same MA fiscal group, requiring consideration of both spouses' income. BEM 211 (January 2015), p. 5.

In this case, Petitioner acknowledges that he and his wife are married and live together. Therefore, when the Department became aware of this fact, it properly combined them into a single FAP group and MA fiscal group.

FAP Benefit Amount

The Department presented a FAP net income budget for December 2015 ongoing, showing the calculation of Petitioner's monthly \$16 FAP benefits (Exhibit D) that was reviewed with Petitioner at the hearing. The budget showed a group size of two, Petitioner and his wife. The budget showed household income totaling \$2099, which the Department testified was the sum of Petitioner's gross monthly Retirement, Survivors, and Disability Insurance (RSDI) income of \$1147 and his wife's gross monthly RSDI income of \$952. Petitioner verified his and his wife's gross income.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner and his wife each receive RSDI based on a disability, they are senior/disabled/veteran (SDV) members of their FAP group. See BEM 550 (July 2015), pp 1-2. FAP groups with two SDV members and no earned income are eligible for deductions from the group's total income for dependent care, excess shelter, child support expenses of the group, and verified, monthly out-of-pocket medical expenses that exceed \$35 incurred by the SDV member. BEM 554 (October 2014), p. 1; RFT 255 (October 2014), p. 1. Two-person FAP groups are also eligible for a \$154 standard deduction to income. RFT 255, p. 1.

Petitioner confirmed that his household had no day care or child support expenses. The only medical expenses the Department was aware of were the parties' \$104.90 Part B Medicare premiums. The medical deduction shown on the net income budget presented showing \$175 was the total of both parties' Part B premium, less the \$35 threshold. (It is noted that the [REDACTED] Notice of Case Action reflected only Petitioner's wife's Part B deductible in the medical expenses considered because, at that time, Petitioner was not responsible for Part B expenses.) The budget properly showed adjusted gross income of \$1770 (the total unearned income of \$2099, less the

\$154 standard deduction and the \$175 medical deduction). See BEM 556 (July 2013), pp. 1-6.

The final deduction available to Petitioner's group is the excess shelter deduction, which is (i) the sum of Petitioner's monthly shelter expenses and the applicable utility standard for any utilities he is responsible to pay, (ii) less 50% of Petitioner's adjusted gross income. BEM 556 (July 2013), pp. 4-5. In this case, the Department concluded that Petitioner's monthly shelter expense was \$417.93. Although Petitioner testified that he paid more than \$420 monthly, Department policy provides that payments that exceed the normal monthly obligation are not deductible as a shelter expense. BEM 554, p. 13. Because the mortgage payment shown on the mortgage documentation Petitioner provided the Department showed that the regular monthly payment was \$417.93 (Exhibit C), the Department properly concluded that Petitioner's monthly shelter expense was \$417.93. The excess shelter budget showed that the Department applied the \$539 heat and utility (h/u) standard, the most beneficial utility standard available to a FAP client, in calculating Petitioner's excess shelter deduction. See BEM 554, pp. 14-20; RFT 255, p. 1. The sum of Petitioner's monthly housing expenses (\$417.93) and the h/u standard (\$539) is \$957, when rounded up. This sum less 50% of Petitioner's adjusted gross income (\$885 in this case) results in an excess shelter deduction of \$72, as shown on the excess shelter deduction.

When Petitioner's adjusted gross income of \$1770 is reduced by the \$72 excess shelter deduction, Petitioner's net income is \$1698. Based on net income of \$1698 and a FAP group size of 2, Petitioner was eligible for monthly FAP benefits of \$16. RFT 260 (October 2015), p. 22. Because the Department properly treated Petitioner's wife's [REDACTED] application as a FAP member add, the change was properly applied to affect Petitioner's November 1, 2015, ongoing, FAP benefits. See BAM 220 (October 2015), p. 10.

MA Case

When the Department put Petitioner and his wife in the same MA fiscal group, it concluded that they were eligible for MA under a Group 2 SSI-related (G2S) category with a monthly deductible for the wife of \$1474 in October 2015 and for both Petitioner and his wife of \$1369 effective [REDACTED] (Exhibit E).

A client's eligibility for SSI-related MA is based, in part, on the fiscal group's income. BEM 105 (October 2014), p. 1. MA fiscal groups with two members are income-eligible for full-coverage MA under the AD-Care program if the group's income is at or below \$1347. BEM 163 (July 2013), p. 2; RFT 242 (May 2015), p. 1. Because Petitioner's and his wife's combined RSDI income exceeds the income limit for AD-Care eligibility, the Department properly concluded that they were not eligible for full-coverage MA.

Clients who are ineligible for full-coverage MA coverage because of excess income may be 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 two living in Wayne County, is \$500 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's group's monthly net income (less allowable needs deductions) is in excess of \$500, Petitioner and his wife may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the group's monthly net income, less allowable deductions, exceeds \$500. BEM 545 (July 2013), p. 2.

Based on gross income totaling \$2099, as described above, Petitioner's household's net income is \$2079. BEM 541 (January 2015), p. 3. 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 (July 2013), pp. 1-3. In this case, Petitioner's wife paid \$104.90 towards Part B Medicare premiums and, later, Petitioner also began paying \$104.90 towards his Part B Medicare premium. There were no other eligible needs deductions presented. When the \$2079 in net income is reduced by Petitioner's wife's \$104.90 Part B premium, the countable income, rounded down, is \$1974. Petitioner's group's countable income of \$1974 reduced by the \$500 PIL results in excess income of \$1474. Therefore, based on Petitioner's household's situation in October 2015, the deductible was properly calculated at \$1474 for Petitioner's wife in October 2015.

When Petitioner became responsible for his Part B Medicare premium, the household's \$2079 in net income was reduced by the total \$210 paid by Petitioner and his wife for Part B Medicare premiums, leading to countable income of \$1869. Petitioner's countable income of \$1869 reduced by the \$500 PIL results in excess income of \$1369. Therefore, the deductible amount was properly decreased to \$1369 monthly to reflect Petitioner's Part B premiums.

It is noted that, because Petitioner and his wife are in the same fiscal group, they become income eligible for MA coverage when their **combined** medical expenses exceed the deductible amount. BEM 545 (October 2015), p. 11.

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 amount and his and his wife's MA coverage.

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 Signed: **12/23/2015**

Date Mailed: **12/23/2015**

ACE / hw

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:

