

**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.: 15-013116
Issue No.: 3008, 2001
Agency Case No.: [REDACTED]
Hearing Date: October 28, 2015
County: Macomb (12) Mt. Clemens

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 28, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP)?
2. Did the Department properly calculate the Petitioner's Medical Assistance (MA) program spenddown (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. The Petitioner is an ongoing recipient of FAP benefits and MA Group 2 S with a deductible.
2. The Department issued a Notice of Case action on June 17, 2015, after a redetermination, which approved the Petitioner for FAP benefits of \$ [REDACTED] per month. Exhibit B.
3. The Petitioner received unearned income of \$ [REDACTED] per month and pays rent of \$ [REDACTED] and received an electricity allowance of \$ [REDACTED] and a telephone allowance of \$ [REDACTED]. The Department also credited the Petitioner on ongoing deduction of for medical expenses of \$ [REDACTED]. Exhibit B and Exhibit D.

4. The Department issued a Health Care Coverage Determination Notice on June 29, 2015, imposing a deductible of \$ [REDACTED] monthly effective August 1, 2014, ongoing. Exhibit C and Exhibit A.
5. The Petitioner requested a timely hearing on July 17, 2015, protesting the Department's actions.

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.

In this case, the Department conducted a redetermination on May 1, 2015, of the Petitioner's MA case and FAP case. The redetermination was completed on June 29, 2015. The Petitioner requested a hearing regarding the amount of her FAP and whether her spenddown (deductible) was correct.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group of one (Petitioner) living in Macomb County is \$ [REDACTED] BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on her gross income, is greater than \$ [REDACTED]

In this case, the Department produced an Supplemental Security Income (SSI)-Related MA budget showing how the deductible in Petitioner's case was calculated. Exhibit A. Petitioner confirmed her monthly gross income amount from Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED]. Thus, the Department properly concluded that Petitioner's gross income was \$ [REDACTED]. This amount is reduced by a \$ [REDACTED] disregard, resulting in a net unearned income of \$ [REDACTED]. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p.5. The Petitioner also had an Insurance Premium expense in the amount of \$ [REDACTED] which was not deducted from her income, which when included, requires that the deductible be recalculated. Once the \$ [REDACTED] is included in the expense, the new deductible amount is \$ [REDACTED] leaving Countable income of \$ [REDACTED]. The final step is to deduct the \$ [REDACTED] from the Countable income of \$ [REDACTED] which results in a \$ [REDACTED] deductible. Because the Department did not include the insurance premium, the budget as presented was incorrect. The Petitioner reported, but the Department system did not include the amount of \$ [REDACTED] when it calculated the spenddown budget. The Department conceded that this was incorrect and that the correct deductible amount should be \$ [REDACTED]. Exhibit A. The Department advised the deductible amount would be applied to May 2015.

The deductions to unearned income on the net income budget were also reviewed for the FAP benefit determination. Petitioner is the only member of her FAP group and is a senior/disabled/veteran (SDV) member of the 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.

The FAP budget was also reviewed at the hearing. The benefits as calculated were correct as presented. The income of \$ [REDACTED] was confirmed to be correct. The standard deduction of \$ [REDACTED] was also correct. Additional medical expenses were not included, including the Medicare Part D premium amount of \$ [REDACTED]. A medical deduction of \$ [REDACTED] was included. No other medical expenses were verified by the Petitioner after the Department sent a Verification Request for these expenses, which was not returned by Petitioner. Although the Department did not include the insurance premium of \$ [REDACTED] the expense does not change the amount of the FAP benefits. The Department also included \$ [REDACTED] in rent, and an electric allowance expense of \$ [REDACTED] and a telephone expense of \$ [REDACTED]. The rent was confirmed as correct, and the allowances for utility and telephone are also correct and in accordance with policy. The total housing expenses were \$ [REDACTED]. Half of the Petitioner's adjusted gross income is then deducted leaving \$ [REDACTED] in excess housing expense. The \$ [REDACTED] is then deducted from the \$ [REDACTED] leaving \$ [REDACTED]. Based upon RFT 260, a group of one member with this income is entitled to \$ [REDACTED] of FAP benefits monthly. BEM 556; RFT 260 (October 2014), p. 2.

Based upon the budget presented, it is determined that the benefit amount of \$ [REDACTED] is correct. The failure of the Department to include the insurance premium does not change the benefit amount; and thus, this error does not require remedial correction other than to add this expense into the budget ongoing. As discussed at the hearing, the Petitioner's FAP benefits will potentially increase once the expenses are presented. The Department sought confirmation of prescription drug cost and transportation expenses which were not provided. The Petitioner may submit these at any time; and the ongoing expenses will be included, which will bring down the Adjusted Gross Income.

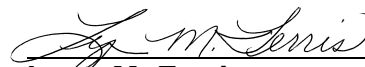
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Petitioner was entitled to \$ [REDACTED] in FAP benefits. It is also determined that the Department did not act in accordance with Department policy when it failed to include the insurance premium reported by Petitioner but not included as a medical premium when calculating the Petitioner's MA spenddown amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP benefit calculation and **REVERSED IN PART** with respect to its calculation of the MA spenddown amount.

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. The Department shall recalculate the Petitioner's MA deductible to include an insurance premium of \$ [REDACTED]
2. The Department shall also include as an ongoing medical expense the insurance premium of \$ [REDACTED] in the FAP budget medical expense deduction.
3. The Department shall provide written Notice to the Petitioner of the new MA deductible amount.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/6/2015**

LMF/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:

