



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 5, 2016
MAHS Docket No.: 16-001888
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 March 28, 2016, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits and close her Medical Assistance (MA) 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. Petitioner was an ongoing recipient of FAP and MA benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP and MA was reviewed. (Exhibit A, pp. 5-10)
3. Petitioner is employed and reported earning \$440 biweekly on her redetermination. (Exhibit A, p. 8)
4. Petitioner submitted two pay stubs with her redetermination, each reflecting biweekly pay of \$440. (Exhibit A, pp. 11-12)

5. On [REDACTED], the Department sent Petitioner a Notice of Case Action informing her that effective [REDACTED], she was approved for FAP benefits in the amount of \$36. (Exhibit A, pp.3-4)
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective [REDACTED], her MA case would be closed on the basis that her income exceeds the limit for MA eligibility. (Exhibit B)
7. On [REDACTED], Petitioner requested a hearing disputing 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).

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 to dispute the decrease in her FAP benefits. The Department presented a FAP EDG Net Income Results Budget, which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 20-21).

All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8. An employee's wages include salaries, tips, commissions, bonuses, severance

pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2014), pp. 6-7.

The Department concluded that Petitioner had earned income of \$946, which it testified consisted of her earnings from employment as reported on the redetermination. Specifically, the Department stated that it relied on the pay stubs provided and considered \$440 paid on [REDACTED], and \$440 paid on [REDACTED]. Petitioner confirmed that the paystubs relied on by the Department were correct. Upon further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Petitioner's earned income based on the information provided by Petitioner and available to the Department at the time the redetermination budget was completed.

With respect to unearned income, the budget reflects unearned income in the amount of \$427. The Department testified that it was informed by Petitioner that she receives contributions from family and friends which the Department included in the FAP budget as unearned income. Department policy provides that the Department is to count a donation to an individual by family or friends as the individual's unearned income. Bridges will count the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503 (October 2015), p. 10.

The Department could not identify how this amount was determined and did not provide any documentation to support the calculation, other than a bank statement that does not reflect \$427 in cash deposits. The Department stated that it sent Petitioner a Quick Note instructing her to submit six months of bank statements to verify the amount being contributed to her monthly by family and friends and that Petitioner did not provide the additional bank statements. Petitioner stated that she received some help and gifts from family and friends in December 2015 because it was the holiday time and she was in the process of moving. Petitioner testified that she has not received any additional contribution or assistance since December 2015. The evidence established that the contribution was not expected to continue and thus, should not have been continuously included in Petitioner's FAP budget. Therefore, the Department did not properly calculate Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that Petitioner's earned income deduction was \$190 and there was no evidence presented that she had any out of pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care expenses or child support. Based on the one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2015), p. 1. In calculating Petitioner's excess shelter deduction of \$504, the Department considered her verified housing expenses of \$645 and the \$539 standard heat and utility deduction. BEM 554, pp. 16-19; RFT 255, p.1.

After further review, 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 because of the errors in the calculation of unearned income, the Department did not act in accordance with Department policy when it calculated the amount of Petitioner's FAP benefits effective [REDACTED].

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 disputed the closure of her MA case effective [REDACTED]. The Department stated that Petitioner's eligibility to receive MA under the HMP was reviewed in connection with a redetermination. The Department stated that based on her wages and unearned income from cash contributions, Petitioner's continued eligibility for MA was denied because her income was in excess of the limit for MA eligibility under the HMP. The Department notified Petitioner of the case closure by sending a Health Care Coverage Determination Notice dated [REDACTED]. (Exhibit B).

Additionally, HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. MPM, Healthy Michigan Plan, § 1.1. An individual is eligible for HMP if his or her household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and number of dependents. In this case, Petitioner did not have any dependents and files taxes individually, thus her MA group size is one.

The Department stated that in calculating Petitioner's annual income, it relied on the information that Petitioner provided with her redetermination. The Department presented a MAGI eligibility determination summary from Bridges which reflected \$950 in wages and \$427 in cash support. (Exhibit C). It was unclear how the Department determined that Petitioner's monthly wages for MA purposes were \$950, as she is paid \$440 biweekly, however. Additionally, as discussed above, the Department improperly included the \$427 as unearned income.

Therefore, upon further review, 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 closed Petitioner's MA case under the HMP on the basis that her income exceeded the limit.

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 [REDACTED], ongoing;
2. Issue FAP supplements to Petitioner from [REDACTED], ongoing, in accordance with Department policy;
3. Reinstate Petitioner's MA case under the HMP effective [REDACTED]; ongoing;
4. Provide Petitioner with MA coverage under the HMP from [REDACTED], ongoing; and
5. Notify Petitioner in writing of its decision.

ZB/hw



Zainab Baydoun

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Via electronic delivery

[REDACTED]

Petitioner

[REDACTED]