



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 9, 2016
MAHS Docket No.: 16-005801
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 June 1, 2016, from Detroit, Michigan. Petitioner did not appear and was represented by [REDACTED], Petitioner's spouse. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly included Petitioner spouse in determining Petitioner's Medical Assistance (MA) and 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 MA and FAP recipient, in part, based on a group size of one person.
2. Petitioner was living with his spouse.
3. On [REDACTED], MDHHS determined Petitioner was eligible to receive Medicaid subject to a \$1,741 monthly deductible, effective May 2016, in part, by factoring Petitioner's spouse as a benefit group member.
4. On [REDACTED], Petitioner's AHR requested a hearing to dispute Petitioner's MA and FAP eligibility for May 2015.

5. On [REDACTED], MDHHS determined Petitioner was eligible to receive \$16, effective May 2016, in part, by factoring Petitioner's spouse as a benefit group member.

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).

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).

In response to an inquiry of special accommodations for the hearing, Petitioner's AHR stated Petitioner was unable to walk or capable of understanding. No accommodations were needed as Petitioner did not attend the hearing.

Petitioner's hearing request indicated disputes concerning MA and FAP eligibility. Petitioner's AHR testified she disputed an increase in Petitioner's Medicaid deductible to \$1,741 and a FAP benefit reduction to \$16/month. Petitioner's AHR testified she thought the FAP reduction began in May 2016 and the MA reduction began in April 2016. MDHHS responded that both actions became effective May 2016.

MDHHS presented a Notice of Case Action (Exhibit 1, p. 3) dated [REDACTED]. The notice stated Petitioner was to receive \$16 in FAP benefits for May 2016.

MDHHS presented MA budgets for Petitioner. The April 2016 budget (Exhibit 1, p. 1) calculated Petitioner was eligible to receive Medicaid subject to a \$720/month deductible. A May 2016 budget (Exhibit 1, p. 2) stated Petitioner was eligible to receive Medicaid subject to a \$1,741 deductible. Based on presented evidence, it is found Petitioner's AHR intended to dispute Petitioner's MA eligibility beginning May 2016.

The presented Notice of Case Action reducing Petitioner's FAP eligibility was dated after Petitioner's hearing request; this is suggestive that Petitioner's AHR may have prematurely requested a hearing to dispute FAP eligibility. Technically, the administrative hearing process cannot address disputes that were not ripe as of the date of hearing request submission. Despite some evidence supporting a dismissal of Petitioner's FAP dispute, Petitioner's FAP dispute will be addressed.

MDHHS did not object to issuance of an administrative decision concerning the FAP dispute. Nor was MDHHS unprepared to address the dispute. In fact, the FAP dispute concerns the same reasoning as the unquestionably ripe MA benefit dispute. It is reasonably possible that MDHHS issued a written notice of FAP reduction before Petitioner requested a hearing, though MDHHS happen to present a later-issued notice. Petitioner's hearing request is found to be ripe for MA and FAP benefit disputes.

It was not disputed that MDHHS based Petitioner's FAP and MA eligibility before May 2016 on a group size of 1 person. It was not disputed that MDHHS recalculated Petitioner's May 2016 FAP and MA eligibility by factoring Petitioner's spouse as a household member.

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (October 2015), p. 1. Food Assistance Program group composition is established by determining all of the following (see *Id.*): who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation.

[For SSI-related MA eligibility,] an adult's fiscal and asset group is... the adult and his spouse... BEM 211 (January 2016), p. 1. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the individual:

- The individual's spouse, and
- The individual's parent(s) if the individual is a child.

Id.

MDHHS policy clearly allows MDHHS to factor Petitioner's spouse (and her income and assets) in MA and FAP determinations when the spouse lives with the client. Petitioner's spouse alleged she did not live with Petitioner.

MDHHS presented investigative findings (Exhibit 1, p. 5) from an investigative agent. The investigative findings concluded Petitioner lived with his spouse. The conclusion was partially supported by an alleged conversation with a landlord of Petitioner's. The landlord allegedly told the investigating agent that Petitioner needed to move (from the landlord's residence) to a residence without stairs following Petitioner's release from a nursing home (Petitioner's AHR confirmed the same). Petitioner's landlord also allegedly stated that Petitioner and his spouse previously lived together. The

investigative findings also referenced a lease for Petitioner's new residence which listed Petitioner and his spouse and tenants.

MDHHS did not present the lease listing Petitioner and his spouse as tenants, however, Petitioner's AHR testimony conceded she signed the lease. She testified she only signed the lease to make it easier to check on Petitioner.

Petitioner's AHR alleged a very improbable circumstance. She stated her husband suffered from dementia and other conditions that were indicative of a need for intensive caregiving. On the other hand she claimed he lived by himself. She testified she was separated from her husband since 2007 and that she only checked on him because he had nobody else.

During the hearing, Petitioner's spouse was asked what her address was if she did not live with her husband. Petitioner's spouse was unable to provide an address.

MDHHS presented a driver's license for Petitioner's spouse (Exhibit 1, pp. 6-7). Petitioner's spouse's driver's license listed an updated address that was the same as Petitioner's.

Toward the end of the hearing, Petitioner's spouse testified she would be "getting a divorce and changing her address." The statement was consistent to a concession that she indeed lived with her spouse.

Based on presented evidence, it is found Petitioner lives with his spouse. Accordingly, it is found MDHHS properly determined Petitioner's FAP and MA eligibility for May 2016.

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 group eligibility for FAP and MA benefits, effective May 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]