



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: [REDACTED]  
MAHS Docket No.: 16-006907  
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 [REDACTED], from Detroit, Michigan. Petitioner appeared via telephone and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **ISSUES**

The first issue is whether MDHHS properly considered Petitioner for all Medicaid categories.

The second issue is whether MDHHS properly processed Petitioner's 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. On [REDACTED], Petitioner applied for FAP and Medical Assistance (MA) benefits.
2. As of [REDACTED], Petitioner was a disabled individual.
3. Petitioner's application did not report a property tax obligation.
4. Petitioner's application reported various medical expenses.

5. MDHHS did not request verification of Petitioner's property tax or medical expenses.
6. On [REDACTED], MDHHS approved Petitioner for \$16 in FAP benefits, in part, based on \$0 medical expenses, and \$0 property tax obligation.
7. On an unspecified date, MDHHS issued Healthy Michigan Plan (HMP) benefits to Petitioner for [REDACTED] and [REDACTED].
8. On an unspecified date, MDHHS issued AD-Care to Petitioner, effective [REDACTED].
9. On [REDACTED], Petitioner requested a hearing to dispute the determinations of FAP and MA benefits.

### **CONCLUSIONS OF LAW**

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).

Petitioner requested a hearing, in part, due to a MA dispute. Petitioner's hearing request was not insightful into explaining the dispute.

Petitioner initially testified MDHHS approved her for MA benefits. Petitioner was asked why she sought a hearing for an approved MA application. Petitioner responded she wanted a hearing to dispute a FAP determination, and she thought she had to request a hearing about MA too because she applied for both program using the same application. Petitioner's initial explanation for requesting a hearing was nonsensical.

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, p. 3) dated [REDACTED]. The notice stated Petitioner was approved for "Full Coverage" as of [REDACTED]. The notice was indicative that Petitioner receives the maximum MA available.

Later Petitioner testimony indicated she tried to access her health insurance and spoke to someone over the telephone. Petitioner testified that she was told that she was approved for the "wrong medical coverage" and that it could not be used as a secondary coverage to Medicare coverage she was also receiving. Petitioner testified MDHHS

should have approved her for “straight Medicaid” but instead approved her for Healthy Michigan Plan (HMP).

HMP is understood to be a medical coverage available to persons who are otherwise ineligible for other Medicaid categories. HMP is understood to be unavailable to persons who qualify for Medicare. Petitioner’s testimony was suggestive that MDHHS might not have considered her for the proper Medicaid category.

Persons may qualify under more than one MA category. BEM 105 (October 2014), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility or the least amount of excess income. *Id.*

Presented evidence strongly indicated that Petitioner was disabled as of [REDACTED]. This indication was supported by testimony that Petitioner was an ongoing recipient of SSA-disability benefits. The MDHHS case summary conceded Petitioner received disability-based benefits.

[AD-Care...] is an SSI-related Group 1 MA category. BEM 163 (July 2013), p. 1. [AD-Care...] is available to persons who are aged or disabled (AD). *Id.* Net income cannot exceed 100% of the poverty level. *Id.*

It is reasonably possible that MDHHS wrongly approved Petitioner for HMP rather than the more beneficial AD-Care Medicaid category. The issuance of HMP could have reasonably caused Petitioner to be unable to access her medical coverage.

During the hearing, MDHHS was asked to obtain Eligibility Summary documents of Petitioner’s Medicaid history. Eligibility Summary documents list a client’s MA monthly history including the type of Medicaid category.

Unbeknownst to the presiding administrative law judge, MDHHS instead obtained a MA-EDG Summary (Exhibit 1, p. 7) which MDHHS testimony indicated verified approval for AD-Care. The MDHHS testimony was accurate, though AD-Care eligibility was noted to begin [REDACTED]. The documentation did not verify Petitioner’s Medicaid category before [REDACTED].

One day after the hearing, MDHHS forwarded the requested Eligibility Summary documents (Exhibit 1, pp. 8-12). The documentation verified MDHHS issued HMP benefits to Petitioner for [REDACTED] and [REDACTED]. The issuance of HMP was improper for a disabled individual eligible for AD-Care. It is found MDHHS failed to properly evaluate Petitioner for the most beneficial Medicaid category for the months of [REDACTED].

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).

Petitioner requested a hearing, in part, to dispute a FAP eligibility determination from an application dated [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) listing Petitioner was approved for \$16/month, beginning [REDACTED].

The FAP approval notice included a summary of all budget factors (see Exhibit 1, p. 2). During the hearing, all FAP budget factors were discussed with Petitioner. Petitioner testimony conceded the following budget factors were accurately listed: unearned income (\$1,009), group size (1), child support expenses (\$0), and dependent care expenses (\$0).

MDHHS factored a standard deduction of \$154. The standard deduction is given to all clients and is based on the group size. A \$154 deduction is proper for a 1-person FAP group (see RFT 255).

MDHHS factored a \$539 heat/utility standard. The standard is the maximum credit available (see RFT 255) to Petitioner.

Petitioner disputed two FAP budget factors. The first was property tax obligation.

Petitioner initially testified she reported having property tax obligation on her application. Petitioner later testified she was uncertain if she reported property expenses to MDHHS. MDHHS presented a page from Petitioner's application (Exhibit 1, p. 4). Petitioner listed a property tax obligation of \$0.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. Petitioner's failure to list property tax expenses on her application is persuasive evidence that she failed to report a property tax obligation to MDHHS. It was not disputed that Petitioner did not submit property tax documents to MDHHS. It is found MDHHS properly factored \$0 property tax obligation due to Petitioner's failure to report a property tax obligation or to submit property tax obligation documents.

MDHHS factored \$0 medical expenses for Petitioner. It was not disputed Petitioner listed various medical expenses on her application.

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2015), p. 3. [MDDHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3.

[MDHHS is to] consider only the medical expenses of SDV persons in the eligible group...BEM 554 (October 2014), p. 8. [MDHHS is to] estimate an SDV person's medical expenses for the benefit period. *Id.* [MDHHS is to] verify allowable medical expenses including the amount of reimbursement, at initial application and redetermination. *Id.*, p. 11. [MDHHS is to] verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits and redetermination. *Id.*

MDHHS should have mailed Petitioner a VCL based on Petitioner's reporting of medical expenses on her application. MDHHS testimony conceded a Verification Checklist requesting proof of medical expenses was never sent to Petitioner. The procedural failure is reversible error. MDHHS will be ordered to request proof of Petitioner's medical expenses.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's MA and FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's MA eligibility for [REDACTED] subject to the finding that MDHHS failed to evaluate Petitioner for the most beneficial Medicaid category; and
- (2) Redetermine Petitioner's FAP eligibility, effective [REDACTED], subject to the finding that MDHHS failed to request verification of reported medical expenses.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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**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 [REDACTED]; 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]

**Petitioner**

[REDACTED]