



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.: 16-007669
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

Did the Department properly calculate Petitioner's Medical Assistance (MA) deductible effective [REDACTED]?

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 is an ongoing recipient of FAP benefits and MA - Group 2 Spend-Down (G2S) benefits.
2. Petitioner's household size is two (Petitioner and minor child) and they reside in Wayne County.

3. Petitioner receives \$1,219 in monthly Retirement, Survivors and Disability Insurance (RSDI) income and his son receives \$609 in monthly RSDI income, but the son's mother is the representative payee for his income. See Exhibit A, pp. 10-15.
4. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits decreased to \$65 beginning [REDACTED]. See Exhibit A, pp. 5-9.
5. Effective [REDACTED], Petitioner's G2S deductible decreased to \$699.
6. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.

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.

Preliminary matter

Shortly after commencement of the hearing, Petitioner testified that he also disputed his son's MA benefits. However, Petitioner testified that at the time of the hearing request, he was only disputing his MA deductible. See Exhibit A, p. 2. As such, the undersigned Administrative Law Judge (ALJ) will not address Petitioner's son's MA benefits. See BAM 600 (October 2015), pp. 1-6. Furthermore, Petitioner acknowledged during the hearing that he was only disputing his MA deductible beginning [REDACTED]. Therefore, the undersigned will address the following below: (i) the decrease in

Petitioner's FAP benefits beginning [REDACTED]; and (ii) the calculation of Petitioner's MA deductible beginning [REDACTED].

FAP benefits

It was not disputed that the certified group size is two and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented the May 2016 FAP budget for review. See Exhibit A, pp. 16-17.

First, the Department calculated Petitioner's gross unearned income to be \$1,828. See Exhibit A, p. 16. This amount consisted of the following: (i) \$1,219 in Petitioner's RSDI; and \$609 in his son's RSDI income (mother is the representative payee) See Exhibit A, pp. 10-15; see BEM 503 ([REDACTED]), pp. 28-33; and BEM 500 (January 2016), pp. 7-8 (Income paid to an individual acting as a representative for another individual is not the representative's income. The income is the other individual's income). The undersigned finds that the Department properly calculated Petitioner's unearned income in accordance with Department policy. See BEM 500, pp. 7-8 and BEM 503, pp. 28-33.

Next, the Department applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (October 2015), p. 1. Petitioner also did not dispute that the dependent care and child support deductions were calculated as zero. See Exhibit A, p. 16. However, Petitioner indicated that he had out-of-pocket medical expenses, which can be considered as a possible deduction for his FAP benefits. The Department testified that during the pre-hearing conference (dated [REDACTED] – Exhibit A, p. 4) the caseworker notified Petitioner to provide proof of any out-of-pocket medical expenses due to client being a SDV member and explained to him that this may increase his monthly FAP allotment. See Exhibit A, p. 1.

In response, Petitioner testified and/or made the following assertions: (i) he currently has out-of-pocket medical expenses; (ii) he believed he first notified the Department in May of 2016 that he has out-of-pocket medical expenses; (iii) he brought in medical bills from May of 2016 and provided them to his caseworker during his pre-hearing conference (dated on or around [REDACTED]); and (iv) he brought approximately 7 medical bills to the present hearing and the medical bills were dated on or around June 2016.

For groups with one or more SDV member, the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (October 2015), p. 1. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. The Department does not verify other factors, unless questionable. BEM 554, p. 11. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. BEM 554, p. 11.

Based on the foregoing information and evidence, the Department properly did not include any medical deduction for Petitioner's FAP budget for May 2016. Yes, Petitioner claimed that he notified the Department of his medical expenses in May of 2016 and provided verification in June of 2016. However, Petitioner's reported change in medical expenses would not have affect his FAP benefits until June 2016. See BAM 105 (April 2016), pp. 11-12 (Responsibility to Report Changes) and BAM 220 (April 2016), pp. 7-8 (Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date). Petitioner's hearing request is dated in May of 2016 and he is disputing the decrease in his FAP benefits beginning in May of 2016. See Exhibit A, p. 2. The undersigned is only addressing the decrease in his FAP benefits beginning [REDACTED] and is not addressing his FAP allotment beginning [REDACTED] because the change would have occurred subsequent to his hearing request. See BAM 600, pp. 1-6. As such, the evidence established that Petitioner was not eligible for any medical expense deduction for May 2016 at the time it processed his FAP eligibility. BEM 554, pp. 1 and 8-12. Petitioner can attempt to request another hearing if he is disputing his FAP allotment and/or failure to process his reported change in medical expenses effective June 2016. See BAM 600, pp. 1-6.

Once the Department subtracts the \$154 standard deduction, this results in an adjusted gross income of \$1,674. See Exhibit A, p. 16.

Also, the FAP – Excess Shelter Deduction budget (shelter budget) indicated that Petitioner's monthly housing expense is \$1,000, which he did not dispute. See Exhibit A, p. 18. The Department also provided Petitioner with the \$539 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$539 amount. See Exhibit A, p. 18; BEM 554, pp. 14-15; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$1,539. See Exhibit A, p. 18. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,674 adjusted gross income. Fifty percent of the adjusted gross income is \$837. See Exhibit A, p. 18. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$702. See Exhibit A, p. 18.

The Department then subtracts the \$1,674 adjusted gross income from the \$702 excess shelter deduction, which results in a net income of \$972. See Exhibit A, pp. 16-17. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined Petitioner's FAP benefit issuance is found to be \$65 effective [REDACTED]. RFT 260 (October 2015), p. 13.

MA deductible

G2S is an Security Income (SSI)-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department presented the MA-G2S budget for the benefit period of May 2016. See Exhibit A, p. 19.

First, the Department properly calculated Petitioner's gross total unearned income to be \$1,219, which consisted of Petitioner's monthly RSDI income. See Exhibit A, pp. 10-12, 19; BEM 211 (January 2016), p. 8; and BEM 503, pp. 28-33.

Second, the Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$1,199. BEM 541 (January 2016), p. 3.

Third, the Department offers additional deductions in determining the calculation of the MA deductible, which includes guardianship/conservator expenses, insurance premiums, remedial services, and ongoing medical expenses. See Exhibit A, p. 19. However, in this case, such additional deductions expenses were not applicable.

Fourth, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (January 2016), p. 1; BEM 166, p. 2; BEM 544 (July 2013), p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of two living in Wayne County is \$500 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. It should be noted, though, that the parties' testimony and evidence appeared to indicate that the fiscal group size should be one (only Petitioner) in this case and not two. See BEM 211, p. 8. By the Department including a fiscal group size of two, this allows the Petitioner to have a greater PIL deduction (\$500 for a group size of two vs. \$375 for a group size of one). See RFT 200, pp. 1-2 and RFT 240, p. 1. Nevertheless, the Department concluded the group size to be two, which benefited the Petitioner because it resulted in a lower deductible amount. Moreover, an individual whose monthly income is in excess of \$500 (fiscal group size of two) may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545 (January 2016), p.1.

Based on the above policy, Petitioner's countable income of \$1,199 for MA purposes exceeds the monthly protected income level of \$500 by \$699. See Exhibit A, p. 19. Thus, the Department properly calculated Petitioner's MA – G2S deductible to be \$699 effective [REDACTED].

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment in the amount of \$65 effective [REDACTED]; and (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's MA – G2S deductible in the amount of \$699 effective [REDACTED].

Accordingly, the Department's FAP and MA decision is **AFFIRMED**.

EJF/hw



Eric J. Feldman

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]