



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: July 22, 2016
MAHS Docket No.: 16-008017
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 July 13, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). 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) allotment effective [REDACTED]?

Did the Department properly calculate Petitioner's MA – Group 2 Spend-Down (G2S) deductible effective [REDACTED]?

Did the Department properly provide Petitioner with MA coverage she is eligible to receive from [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.
2. On [REDACTED], Petitioner submitted an application for MA benefits. See Exhibit A, p. 1.

3. While processing Petitioner's MA eligibility, the caseworker discovered that a previous caseworker, in error, had listed a medical expenses incurred in August 2014 for \$13,649.52 as ongoing, instead as a one-time expense. See Exhibit A, pp. 1 and 5-6.
4. Petitioner had been getting credit for this expense, in error, for her FAP and MA budgets since December 2014. See Exhibit A, p. 1.
5. As a result, the caseworker corrected the error while processing the May 2016 budget, which resulted in the reduction of Petitioner's FAP benefits and subjected Petitioner to a MA deductible. See Exhibit A, p. 1.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to \$16 effective [REDACTED]. See Exhibit A, pp. 7-8.
7. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA benefits effective [REDACTED], ongoing (with a \$907 monthly deductible). Exhibit A, pp. 9-12.
8. On [REDACTED], Petitioner filed a hearing request, protesting her denial of full MA coverage, the resulting deductible, and the decrease in her FAP benefits. See Exhibit A, pp. 3-4.

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

Based on Petitioner's hearing request, the undersigned will address the following issues separately: (i) whether the Department processed Petitioner's eligibility for the most beneficial MA category for [REDACTED]; (ii) whether the Department properly calculated Petitioner's G2S deductible effective [REDACTED]; and (iii) whether the Department properly decreased Petitioner's FAP benefits effective [REDACTED].

Most Beneficial Program

In the present case, Petitioner argued that the deductible coverage provided by the Department was inadequate. See Exhibit A, p. 3. Instead, Petitioner argued that she should be entitled to full MA coverage. See Exhibit A, p. 3. Petitioner is 62-years-old, she receives Medicare coverage, and she receives a monthly gross Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,422.

Persons may qualify under more than one MA category. BEM 105 (January 2016), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2.

Based on the foregoing information, the evidence and testimony is persuasive to conclude that the Department acted in accordance with Department policy when it processed Petitioner's eligibility for the most beneficial MA category for [REDACTED], ongoing. BEM 105, pp. 2-5. In this case, Petitioner's most beneficial MA category was G2S based on the evidence and testimony presented.

MA – G2S deductible

Next, Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. In this case, Petitioner was found eligible for G2S subject to a \$907 deductible. The undersigned will now determine if the Department properly calculated Petitioner's G2S budget.

In the present case, Petitioner's group size is one and she resides in Wayne County. The Department presented the G2S budget for the benefit period of May 2016. See Exhibit A, p. 14.

G2S is an 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 properly calculated Petitioner's gross total unearned income to be \$1,422, which consisted of her RSDI income. See Exhibit A, p. 14 and BEM 503 (April 2016), p. 28 (The Department counts the gross benefit amount as unearned income).

The Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$1,402. See Exhibit A, p. 14 and BEM 541 (January 2016), p. 3.

Next, the Department does provide budget credits, which can reduce the total net income, and more importantly, the deductible amount. In this instance, policy allows the Department to take into account health insurance premiums. Policy states that the Department counts, as a need item, the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group (defined in "EXHIBIT I") regardless of who the coverage is for. BEM 544 (July 2013), p. 1. In this case, Petitioner is responsible for \$119.80 in insurance premiums, which is comprised of her \$104.90 Medicare Part B premium plus her \$14.90 Medicare Part D premium. See Exhibit A, pp. 6 and 14. As a side note, the Department previously budgeted ongoing medical expenses of \$13,649.52. See Exhibit A, p. 13. However, the evidence record established the following: (i) this was only a one-time medical expense reported in August of 2014; (ii) the Department, in error, kept budgeting this medical expense; and (iii) the caseworker properly removed this medical expense upon processing the May 2016 MA application. See Exhibit A, pp. 1, 5-6, and 13. As such, the May 2016 budget properly did not reflect the \$13,649.52 expense as an ongoing medical expense. See Exhibit A, pp. 13-14. Moreover, Petitioner is only entitled to the deduction of her \$119.80 insurance premiums. See Exhibit A, pp. 6 and 14. As a result, when the Department subtracts the \$119.80 in health insurance premiums from the total net income of \$1,402, the resulting countable income is \$1,282.20. See Exhibit A, p. 14.

Finally, 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, p. 1; BEM 166, p. 2; BEM 544, p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$375, 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 \$1,282.20 for MA purposes exceeds the monthly protected income level of \$375 by \$907. See Exhibit A, p. 14. Thus, the Department properly calculated Petitioner's G2S deductible to be \$907 effective May 1, 2016, in accordance with Department policy.

FAP budget

It was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented the July 2016 FAP budget for review. See Exhibit A, pp. 18-19.

First, the Department properly calculated Petitioner's gross unearned income to be \$1,422, which comprised of her RSDI income. See Exhibit A, p. 18 and BEM 503 (July 2016), p. 28.

Next, the Department applied the \$154 standard deduction applicable to Petitioner's group size of one. RFT 255 (October 2015), p. 1. However, effective [REDACTED], the standard deduction for a group size of one decreased to \$149. See RFT 255 (July 2016), p. 1. Nevertheless, this difference does not affect the overall budget as Petitioner is only eligible for \$16 in FAP benefits when using either the \$149 or \$154 standard deduction. Furthermore, Petitioner also did not dispute that the dependent care and child support deductions were calculated as zero. See Exhibit A, p. 18.

Additionally, the Department provided Petitioner with an \$85 medical deduction. See Exhibit A, p. 18. As stated in the previous analysis, Petitioner was no longer eligible for the \$13,649.52 medical expense as ongoing because it was established that it was only a one-time expense. See Exhibit A, pp. 1, 5-6, and 15-16. Moreover, Petitioner was only responsible for \$119.80 in insurance premiums, which is comprised of her \$104.90 Medicare Part B premium plus her \$14.90 Medicare Part D premium. See Exhibit A, pp. 6 and 18. Policy states that for groups with one or more SDV member, the Department allows medical expenses that exceed \$35. BEM 554 (June 2016), p. 1. Based on this policy, the Department properly calculated Petitioner's medical expense deduction to be \$85 (\$120 (rounded-up) in Medicare premiums minus \$35 threshold). See Exhibit A, p. 18 and BEM 554, pp. 1 and 8-12.

Once the Department subtracts the \$154 standard deduction and \$85 medical deduction, this results in an adjusted gross income of \$1,183. See Exhibit A, p. 18.

Finally, the Department provides Petitioner a shelter deduction. In this case, the Department presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is \$300, which she did not dispute. See Exhibit A, p. 20. 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. 20; BEM 554, pp. 14-16; 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 \$839. See Exhibit A, p. 20. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,183 adjusted gross income. Fifty percent of the adjusted gross income is \$591. See Exhibit A, p. 20. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$248. See Exhibit A, p. 20.

The Department then subtracts the \$1,183 adjusted gross income from the \$248 excess shelter deduction, which results in a net income of \$935. See Exhibit A, pp. 18-19. 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 that Petitioner's FAP benefit issuance is found to be \$16 effective [REDACTED]. RFT 260 (October 2015), p. 12.

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 processed Petitioner's eligibility for the most beneficial MA category for [REDACTED], ongoing; (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's MA – G2S deductible amount of \$907 effective [REDACTED]; and (iii) the Department acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment in the amount of \$16 effective [REDACTED].

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

EF/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 (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



Petitioner

