



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: October 28, 2016  
MAHS Docket No.: 16-012717  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 October 18, 2016, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

The hearing was originally scheduled for October 5, 2016. Petitioner's request for adjournment was granted and the hearing was re-scheduled for October 18, 2016.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-24.

### **ISSUE**

Did the Department properly re-determine Food Assistance Program (FAP) and Medical Assistance (MA) eligibility for Petitioner's family?

### **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's family was receiving FAP was a monthly allotment of \$ [REDACTED] (Exhibit A, p. 10)

2. Petitioner and her husband, were receiving full Medicaid, specifically Healthy Michigan Plan (MA-HMP) MA benefits. (Hearing Facilitator Testimony)
3. On August 8, 2016, Petitioner submitted a Semi-Annual Contact form, in part reporting that her husband has a new job. (Exhibit A, pp. 3-4)
4. On August 22, 2016, the Department received a copy of an August 18, 2016, paycheck stub for Petitioner's husband. (Exhibit A, p. 6)
5. The Department re-determined FAP and MA eligibility for Petitioner's family considering the increase in income from Petitioner's husband's employment. (Exhibit A, pp. 13-14 and 19)
6. On August 17, 2016, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective September 1, 2016, because net income exceeded the limit for this program. (Exhibit A, pp. 15-18)
7. On August 17, 2016, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner and her husband were eligible for Medicaid with a monthly deductible of \$ [REDACTED] (Exhibit A, pp. 20-24)
8. Petitioner's children remained eligible for full Medicaid coverage. (Exhibit A, p. 1; Hearing Facilitator Testimony)
9. On August 31, 2016, Petitioner filed a hearing request contesting the Department's actions. (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).

#### **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.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. A non-categorically eligible, non-(SDV) FAP group must have income below the gross and net income limits. BEM 550, October 1, 2015, p. 1. The FAP net income limit for a group size of 4 was \$ [REDACTED]. RFT 250, October 1, 2015, p. 1.

Petitioner's family was receiving FAP was a monthly allotment of \$ [REDACTED] (Exhibit A, p. 10)

On August 8, 2016, Petitioner submitted a Semi-Annual Contact form, in part reporting that her husband has a new job. (Exhibit A, pp. 3-4) On August 22, 2016, the Department received a copy of an August 18, 2016, paycheck stub for Petitioner's husband. (Exhibit A, p. 6)

The Department re-determined FAP eligibility for Petitioner's family considering the increase in income from Petitioner's husband's employment. The Department determined the FAP group had a net income of \$ [REDACTED] (Exhibit A, pp. 13-14) This exceeds the FAP net income limit for a group size of 4 of \$ [REDACTED] Accordingly, on August 17, 2016, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective September 1, 2016, because net income exceeded the limit for this program. (Exhibit A, pp. 15-18)

Petitioner's testimony indicated she reviewed the documents the Department included in the hearing summary packet and everything looks correct. (Petitioner Testimony)

Overall, the evidence establishes that the Department properly re-determined FAP eligibility for Petitioner's family considering the change with income. The FAP group's net income of \$ [REDACTED] exceeded the net income limit for a group size of 4 of \$ [REDACTED] Accordingly, the Department's determination that the FAP benefit case would close due to net income exceeding the program limit must be upheld.

## 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.

The Medicaid program comprise several sub-programs or categories. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For

Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, July 1, 2016, p. 1.

The Department is to consider eligibility under all other MA-only categories before terminating benefits under a specific category. In addition, when Group 1 eligibility does not exist but all eligibility factors except income are met for a Group 2 category, the Department is to activate deductible status. BEM 105, p. 5.

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The Healthy Michigan Plan (HMP) provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, January 1, 2016, p. 1. The 2016 FPL for the 48 contiguous states and the District of Columbia for a group size of four is an annual income of \$24,300. 81 FR 4036, pp. 4036-4037.

Group 2 Caretaker Relatives (MA-G2C), is a Group 2 MA category available to parents and other caretaker relatives who meet the eligibility factors found in BEM 135. These factors include parents who live in the home with their dependent children. When a dependent child lives with both parents, both parents may be caretaker relatives. BEM 135, October 1, 2015, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. Apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 135, p. 2.

Petitioner and her husband, were receiving full Medicaid, specifically Healthy Michigan Plan (MA-HMP) MA benefits. (Hearing Facilitator Testimony)

On August 8, 2016, Petitioner submitted a Semi-Annual Contact form, in part reporting that her husband has a new job. (Exhibit A, pp. 3-4) On August 22, 2016, the Department received a copy of an August 18, 2016, paycheck stub for Petitioner's husband. (Exhibit A, p. 6)

The Department re-determined MA eligibility for Petitioner's family considering the increase in income from Petitioner's husband's employment. (Exhibit A, pp. 13-14 and 19) Petitioner's children remained eligible for full Medicaid coverage. (Exhibit A, p. 1; Hearing Facilitator Testimony) The MA eligibility for Petitioner and her husband changed from MA-HMP to MA-G2C with a monthly deductible. (Exhibit A, pp. 19-24; Hearing Facilitator Testimony)

When the Department determined that the annual income exceeded the applicable 133% of the FPL limit for HMP eligibility for Petitioner and her husband, eligibility was considered for other MA categories. Petitioner and her husband were determined to be eligible for MA-G2C with a monthly deductible. (Exhibit A, pp. 19-24; Hearing Facilitator Testimony)

The MA-G2C budget included in the Department's Hearing Summary packet indicates the deductible was determined to be \$ [REDACTED] (Exhibit A, p. 19) However, the August 17, 2016, Health Care Coverage Determination Notice issued to Petitioner states Petitioner and her husband were eligible for Medicaid with a monthly deductible of \$ [REDACTED] (Exhibit A, pp. 20-24) It is not clear why a higher deductible amount was listed on the Health Care Coverage Determination Notice than what was calculated on the included MA-G2C budget. Accordingly, the MA eligibility determination for Petitioner and her husband must be reversed.

### **DECISION AND ORDER**

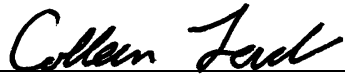
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it re-determined eligibility for FAP for Petitioner's family but did not act in accordance with Department policy when it re-determined MA eligibility for Petitioner and her husband.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP eligibility determination and **REVERSED IN PART** with respect to the MA eligibility determination.

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. Re-determine eligibility for MA for Petitioner and her husband retroactive to the September 1, 2016, effective date, in accordance with Department policy, which would include issuing written notice of the determination.

CL/mc

  
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**Colleen Lack**  
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]

**Petitioner**

[REDACTED]