

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 16-000412
Issue No.: 2001;3008
Agency Case No.: ██████████
Hearing Date: February 25, 2016
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on February 25, 2016, from Detroit, Michigan. Petitioner appeared with her husband, ██████████ and represented herself. The Department was represented by ██████████, Assistance Payment Worker. ██████████ served as Arabic Interpreter.

ISSUE

Did the Department properly: calculate the amount of Petitioner's Food Assistance Program (FAP) benefits; process Petitioner's husband's application for Medical Assistance (MA) benefits; and calculate the amount of Petitioner's monthly MA deductible?

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 or around October 8, 2015, Petitioner's husband submitted an application requesting MA benefits.
2. The Department failed to process Petitioner's husband's request for MA and failed to notify him of his MA eligibility from October 8, 2015, ongoing.
3. Petitioner was an ongoing recipient of FAP and MA benefits.
4. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.

5. On January 4, 2016, the Department sent Petitioner a Notice of Case Action informing her that effective February 1, 2016, she was approved for FAP benefits in the amount of \$248. (Exhibit A, pp. 4-5)
6. On January 4, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective February 2, 2016, she was approved for MA with a monthly deductible of \$970. (Exhibit A, p. 6)
7. On January 12, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and MA cases.

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.

Petitioner requested a hearing to dispute the decrease in her FAP benefits to \$248 effective February 1, 2016. At the hearing, the Department presented a FAP EDG Net Income Budget which was reviewed to determine if the Department properly calculated Petitioner's FAP benefits. (Exhibit A, pp. 13-15).

All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-8. An employee's wages include salaries, tips, commissions, bonuses, severance

pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2014), pp. 6-7.

In this case, the Department concluded that Petitioner's group had earned income of \$2895 which it testified consisted of her husband's weekly earnings from employment. Specifically, the Department relied on paystubs submitted and considered: (i) \$613.66 paid on November 20, 2015; (ii) \$722.52 paid on November 27, 2015; (iii) \$471.74 paid on December 4, 2015; and (iv) \$885.82 paid on December 11, 2015. Petitioner's husband confirmed that the wage information relied on by the Department was correct and the paystubs were provided for review. (Exhibit A, pp. 9-12). Upon further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Petitioner's earned income.

The deductions to income on the net income budget were also reviewed. Petitioner's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that Petitioner's earned income deduction was \$579 and there was no evidence presented that she had any out of pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care expenses or child support. Based on her confirmed five-person group size, the Department properly applied the \$196 standard deduction. RFT 255 (October 2015), p. 1. In calculating Petitioner's excess shelter deduction of \$379, the Department considered her verified housing expenses of \$900 and the \$539 standard heat and utility deduction. BEM 554, pp. 16-19; RFT 255, p.1.

After further review, the Department properly reduced Petitioner's gross income of \$2895 by the \$579 earned income deduction, the \$196 standard deduction, and the \$379 excess shelter deduction, resulting in monthly net income of \$1741. Based on net income of \$1741 and a FAP group size of five, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$248. BEM 556; RFT 260 (October 2015), p.22.

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 calculated Petitioner's FAP benefits.

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.

Petitioner requested a hearing disputing the Department's actions with respect to the MA program. It was established at the hearing that on October 8, 2015, Petitioner's husband submitted an application for MA benefits.

For MA, the Department determines group composition by applying the factors found in BEM 211. BEM 211 (January 2015). The Department is to process applications and reported changes such as member adds for MA in accordance with the policies found in BAM 110 (July 2015); BAM 115 (October 2015); and BAM 220 (October 2015).

Upon review of the case on Bridges, the Department stated that it did not appear as though the application was processed. Although the Department testified that Petitioner's husband had an EDG number and was able to produce a G2 FIP Related MA Net Income Budget showing that he had MA under a deductible based program with a monthly deductible of \$970, the Department stated that it never sent Petitioner's husband a notice informing him of his MA eligibility. The Department also did not establish that Petitioner's husband had an active MA case. Therefore, Petitioner's husband's MA eligibility was not determined nor was his MA application processed in accordance with Department policies. See BAM 110 (July 2015); BAM 115 (October 2015); and BAM 220 (October 2015).

Petitioner also disputed the Department's calculation of her monthly deductible of \$970. The Department established that it sent Petitioner a Health Care Coverage Determination Notice advising her that she was approved for MA under the Group 2 Caretaker (G2C) program and that effective February 1, 2016, her monthly deductible was \$970.

Additionally, 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 135 (October 2015), p 1,3; BEM 544 (July 2013), p 1; BEM 545 (January 2016); RFT 200 (December 2013); RFT 240 (December 2013), p 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (January 2016); BEM 536 (January 2014).

In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p.5. Therefore, with respect to Petitioner's deductible, the monthly PIL for her two person fiscal group (Petitioner and her husband) living in Wayne county is \$500 per month. BEM 211, pp.5-6;RFT 200, p 1; RFT 240, p 1.

A multi-step process is then utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if Petitioner's net monthly income is in excess of the \$500, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds \$500. BEM 545, p 1.

The Department presented a G2C FIP Related MA Adult Net Income Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's deductible. (Exhibit B). The Department also presented Petitioner's husband's pay stubs which were reviewed to determine that countable income for MA purposes was \$2693.74. The Department properly deducted \$90 as a standard work expense and there was no evidence presented that Petitioner's group received FIP benefits during the applicable months.

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp.1-5. In this case, because Petitioner and her husband live together and have three children under age 18 living in the home, the prorated divisor is 6.9. BEM 536, pp. 3-5.

Upon further review and in consideration of the steps contained in BEM 536, the Department properly calculated Petitioner's net income of \$1470. BEM 536, pp. 1-7. Because Petitioner's net income of \$1470 exceeds \$500, the applicable PIL by \$970, the Department calculated Petitioner's \$970 monthly deductible in accordance with Department policy.

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 calculated Petitioner's monthly deductible but did not act in accordance with Department policy when it failed to process Petitioner's husband's MA application.

DECISION AND ORDER

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

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. Register and process Petitioner's husband's October 8, 2015, MA application to determine his MA eligibility under the most beneficial program;
2. Provide Petitioner's husband with MA coverage that he was eligible to receive, if any, from October 8, 2015, ongoing; and
3. Notify Petitioner and her husband in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **3/3/2016**

Date Mailed: **3/3/2016**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion. MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]