



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 18, 2016  
MAHS Docket No.: 16-000841  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 telephone hearing was held on March 10, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with his Caregiver, [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and [REDACTED], Family Independence Manager.

### **ISSUE**

Did the Department properly process Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

### **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 was previously receiving MA benefits under Case No. [REDACTED] and on or around September 29, 2015, the Department notified Petitioner that his MA case would be closed effective November 1, 2015.
2. On or around October 22, 2015, Petitioner submitted an application for MA benefits. The application was processed under Case No. [REDACTED].
3. In connection with the October 22, 2015, MA application, the Department instructed Petitioner to submit requested verifications by November 9, 2015.

4. On November 10, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) under Case No. [REDACTED] advising him that he was approved for Medicare Savings Program (MSP) benefits for the month of October 2015. The Notice further informs Petitioner that effective November 1, 2015, he was ineligible for MA and MSP benefits on the basis that he failed to return requested verifications. (Exhibit B)
5. The Department conceded that its decision concerning Petitioner's ineligibility for MA under Case No. [REDACTED] effective November 1, 2015, was improper, as it timely received the requested verifications.
6. On or around December 2, 2015, Petitioner submitted an application for MA benefits. The application was processed under Case No. [REDACTED]
7. On or around December 29, 2015, Petitioner submitted an application for MA benefits. The application was processed under Case No. [REDACTED].
8. In connection with the December 29, 2015, MA application, the Department sent Petitioner a health care coverage supplemental questionnaire that he was instructed to complete and return to the Department by January 8, 2016.
9. The Department did not receive the health care coverage supplemental questionnaire by January 8, 2016. The Department received the questionnaire on January 14, 2016.
10. On January 14, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising him of its decision with respect to the December 29, 2015, MA application under Case No. [REDACTED]. The Notice advised Petitioner that effective December 1, 2015, he was ineligible for MA on the basis that he failed to timely return the supplemental questionnaire. (Exhibit A).
11. On January 15, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising him of its decision with respect to the December 2, 2015, MA application under Case No. [REDACTED]. The Notice advised Petitioner that effective December 1, 2015, he was eligible for MA with a monthly deductible of \$818. (Exhibit C)
12. On January 14, 2016, and January 22, 2016, Petitioner submitted additional applications for MA benefits, the details of which were not addressed during the hearing as it was established that Petitioner was approved for MA under the Group 2 Aged, Blind, Disabled (G2S) category under Case No. [REDACTED] as of December 1, 2015, with a monthly deductible. (Exhibit D)
13. Petitioner was an ongoing recipient of FAP benefits under Case No. [REDACTED] (Exhibit D; Exhibit G)

14. Petitioner confirmed that the issue regarding his FAP benefits had been resolved.
15. On February 2, 2016, Petitioner requested a hearing disputing the Department's actions.

### 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.

The hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP benefits. Petitioner testified that there was no longer any issue to resolve regarding FAP as he was receiving FAP benefits. Petitioner stated that the Department corrected the action for which he requested a hearing and stated he is not disputing the actions taken by the Department regarding his FAP case. Therefore, the Request for Hearing with respect to FAP is hereby, **DISMISSED**. See BAM 600 (October 2015).

#### 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.

In this case, Petitioner requested a hearing on February 2, 2016, disputing the Department's actions. A review of Petitioner's hearing request revealed that he did not indicate which program was in dispute, however, Petitioner stated that he requested a hearing regarding his MA benefits. It was initially unclear exactly what negative action taken by the Department Petitioner requested a hearing to dispute, as Petitioner had submitted multiple MA applications that were assigned different case numbers and Petitioner could not clearly identify the negative action in dispute. Petitioner later stated

that he thought everything was alright with his MA case and was unaware of any issues concerning his MA case until he went to the hospital in January 2016 and was informed that he did not have active MA and was on a deductible/spend-down based MA program. After some discussion, production of evidence and documentation, it was established that although several actions were taken on Petitioner's MA case prior to his hearing request, Petitioner's dispute was with respect to the imposition of a MA deductible in the amount of \$818 effective December 1, 2015, under Case No. [REDACTED] (Exhibit C; Exhibit D).

Petitioner, who receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (October 2014), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible or spend-down that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (October 2015), p 10. 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 (October 2014), pp. 1-2; BEM 166 (July 2013), pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one (Petitioner) living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p 1.

At the hearing, the Department produced a SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit F). The Department testified that in calculating Petitioner's unearned income, it considered his monthly RSDI benefits in the amount of \$1213. Petitioner verified that the amount of his RSDI benefit was accurate and the Department presented a SOLQ in support of its testimony. (Exhibit E). Thus, the Department properly calculated Petitioner's unearned income. The Department properly subtracted the \$20 unearned income general exclusion and determined that Petitioner's total countable income for MA purposes was \$1193. There was no evidence presented that Petitioner was entitled to any other deductions to income. BEM 530 (January 2014), pp 1-4; BEM 541 (January 2015), pp.2-3.

Because Petitioner's countable income of \$1193 for MA purposes exceeds the monthly protected income level of \$375 by \$818, the Department properly calculated Petitioner's monthly \$818 MA 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 processed Petitioner's MA benefits and determined that he was eligible for MA under the G2S program with a monthly deductible.

### **DECISION AND ORDER**

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA decision is **AFFIRMED**.



ZB/tlf

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**Zainab Baydoun**

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]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

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

via electronic mail

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