



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: May 19, 2016
MAHS Docket No.: 16-003976
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 12, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. Petitioner's granddaughter, [REDACTED], was present in the hearing room but did not participate. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly determine that Petitioner was eligible beginning March 1, 2016 to Medicaid (MA) subject to a monthly \$711 deductible?

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits of \$16 monthly effective March 1, 2016?

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 an ongoing recipient of FAP and MA benefits.
2. Petitioner is [REDACTED] years old, lives in Wayne County, and is unmarried.

3. Petitioner receives \$1014 in gross monthly Retirement, Survivors and Disability Income (RSDI) and \$92.92 in monthly pension income.
4. In connection with a redetermination, the Department sent Petitioner (i) a March 2, 2016 Health Care Coverage Determination Notice notifying her that she was eligible for MA effective March 1, 2016 with a monthly \$711 deductible and (ii) a March 2, 2016 Notice of Case Action notifying her that she was eligible for \$16 in monthly FAP benefits effective March 1, 2016 (Exhibits A and B).
5. On March 18, 2016, the Department received Petitioner's request for hearing concerning the calculation of her MA deductible and her FAP benefits.

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).

Although Petitioner only marked the MA box on her hearing request, in the narrative, she expressed a concern regarding both her MA deductible and her FAP benefits. The Department addressed both issues in its hearing packet, and both here issues were addressed at the hearing.

FAP Calculation

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 Department presented a FAP net income budget for March 2016 and May 2016 ongoing, which were identical, showing the calculation of Petitioner's monthly \$16 FAP benefits (Exhibits H1 and J) that were reviewed with Petitioner at the hearing. The budgets showed a group size of one, which Petitioner confirmed. The budgets showed household income totaling \$1106, which the Department testified was the sum of Petitioner's gross monthly RSDI income of \$1014 and her monthly \$92.92 pension, which Petitioner did not dispute receiving.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner is over age 65, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (October 2015), pp 1-2. FAP groups with an

SDV member and no earned income are eligible for deductions from the group's total income for dependent care, excess shelter, child support expenses of the group and verified, monthly out-of-pocket medical expenses that exceed \$35 incurred by the SDV member. BEM 554 (October 2015), p. 1. One-person FAP groups are also eligible for a \$154 standard deduction to income. RFT 255 (October 2015), p. 1.

Petitioner confirmed that she had no day care or child support expenses. The budget shows medical expenses of \$86 which the Department testified was the difference between her \$121 monthly Medicare Part B premium and the \$35 threshold. Although the SOLQ report requested from the Department was not received into evidence, Petitioner testified that she had paid for one month of her Part B Medicare premium, and then she was reimbursed for this month and the State continued to pay for the Part B premium. Therefore, it appears that the FAP budgets may reflect the month that Petitioner paid the premium. Petitioner testified that she did not have any additional health insurance expenses. The Department testified that Petitioner submitted proof of additional medical expenses on April 14, 2016, after she filed her hearing request. Because the Department did not have those expenses when it prepared her budget or when Petitioner requested a hearing, those expenses are not considered in this decision. Based on the evidence presented, Petitioner's medical expense deduction was limited to \$86, as shown on the budget.

Petitioner's total unearned income of \$1106 less the \$154 standard deduction and the \$86 medical deduction results in adjusted gross income of \$866. See BEM 556 (July 2013), pp. 1-6. Adjusted gross income is reduced by the last deduction available, the excess shelter deduction. The excess shelter deduction is based on the client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. It is calculated by reducing (i) the sum of monthly shelter expenses and the applicable utility standard by (ii) 50% of Petitioner's adjusted gross income. BEM 556 (July 2013), pp. 4-5. Petitioner acknowledged at the hearing that all her utilities, other than phone, were included in her rent. Therefore, the only utility standard she was eligible to receive was the \$33 telephone standard, as shown on the budget. RFT 255, p. 1; BEM 554, pp. 14-23. The excess shelter budget (Exhibit I) shows that the Department considered \$287 for Petitioner's monthly rent; Petitioner countered that her monthly rent was \$291. Regardless of which rent figure is used, because the sum of her shelter expenses and utility standard do not exceed 50% of her adjusted gross income, Petitioner is not eligible for an excess shelter deduction. Therefore, the Department properly calculated the excess shelter deduction.

Because Petitioner is not eligible for an excess shelter deduction, Petitioner's \$866 adjusted gross income is also her net income. Based on net income of \$866 and a FAP group size of one, Petitioner was eligible for monthly FAP benefits of \$16. RFT 260 (October 2015), p. 11. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's monthly FAP allotment.

MA Case

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 was receiving MA under the AD-Care program, a full coverage SSI-related MA category (Exhibit C). In connection with processing the redetermination, the Department concluded that Petitioner was no longer eligible for AD-Care but was eligible effective March 2016 for MA under a Group 2 SSI-related (G2S) category with a \$711 monthly deductible. At the hearing, the Department presented budgets showing that the deductible had dropped to \$590 for May 2016 ongoing (Exhibit C).

A client's eligibility for SSI-related MA is based, in part, on the fiscal group's income. BEM 105 (January 2016), p. 1. An MA fiscal group with one member is income-eligible for full-coverage MA under the AD-Care program if the group's net income is at or below 100% of the federal poverty level, which is \$990. BEM 163 (July 2013), p. 2; RFT 242 (April 2016), p. 1; <https://aspe.hhs.gov/poverty-guidelines>.

Petitioner's monthly total income, her \$1014 RSDI plus \$92.92 pension income, results in gross monthly income of \$1106.92. The sum reduced by the \$20 disregard results in net income for MA purposes of \$1086.92. BEM 541 (January 2016), p. 3. Because this total exceeds \$990, Petitioner is ineligible for MA coverage under the AD-Care program, and the Department properly concluded that she was not eligible for full-coverage MA.

Clients who are ineligible for full-coverage MA coverage because of excess income may nevertheless be eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's shelter area and fiscal group size. BEM 105, p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Wayne County, is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$375. BEM 545 (July 2013), p. 2.

As discussed above, Petitioner has net income of \$1086. Net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for

individuals in adult foster care or home for the aged. BEM 544 (July 2013), pp. 1-3. Petitioner does not reside in an adult foster care home or home for the aged. Therefore, she is not eligible for any remedial service allowances. As discussed above, Petitioner's sole health expense is her Part B Medicare premium, which the Department testified was \$121. It appears that the State pays this expense, although, according to Petitioner, there was one month where she paid this expense and was later reimbursed. Because Petitioner did not have any health insurance premiums in March 2016, she was not eligible for any allowable needs deductions for March 2016. Petitioner's \$1086 net income less the \$375 PIL results in a monthly deductible of \$711. Therefore, the Department properly calculated the deductible for March 2016.

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 FAP benefits and determined she was eligible for MA subject to a deductible.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

ACE/tlf



Alice C. Elkin
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

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