



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: May 12, 2016  
MAHS Docket No.: 16-004451  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

### **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 4, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. Petitioner's Caregiver, [REDACTED] was also present. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

### **ISSUE**

Did the Department properly calculate Petitioner's eligibility for FAP benefits as of January 2016, ongoing?

Did the Department properly determine that Petitioner was eligible for MA coverage subject to a \$604.00 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. Petitioner is an ongoing FAP recipient.
2. Petitioner's FAP benefits fluctuate based upon her medical expenses.
3. The Department did not consider Petitioner's eligible medical expenses for January 2016 and February 2016.

4. Petitioner is an ongoing MA recipient.
5. Petitioner receives \$1,032.00 in RSDI income each month.
6. On [REDACTED], the Department sent Petitioner a Health Care Determination Notice which notified Petitioner that she was eligible for MA subject to a \$604.00 deductible.
7. On [REDACTED], Petitioner filed a Request for 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).

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.

#### **FAP**

Additionally, all countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4.

Requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, there was no evidence that the Department issues a Notice of Case Action 90 days prior to Petitioner's Request for Hearing. However, Department policy holds that Supplemental Food Assistance benefit issuances (supplements) **must** be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements

are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, p. 3.

On [REDACTED] Petitioner requested a hearing relating to both her FAP and MA benefits. It is found that the request for hearing constituted a request for lost FAP benefits. Further, as discussed below, at the hearing, the Department discovered that a loss had occurred. As such, it is found that the undersigned has jurisdiction with respect to any lost benefits within the 12 months preceding [REDACTED].

Petitioner receives RSDI income in the amount of \$1,032 per month. Petitioner has a group size of one. The Department testified that Petitioner's FAP benefits fluctuates based upon expenses which are eligible for a medical deduction. The Department further testified that Petitioner submitted expenses sufficient for her to receive a medical deduction in January 2016 and February 2016. However, the Department confirmed that the eligible medical expenses were not included in the calculation of Petitioner's FAP benefits which caused Petitioner to receive less in FAP benefits than she was entitled to receive. The Department agreed that Petitioner was entitled to \$194.00 in FAP benefits for January 2016 and February 2016 but indicated that Petitioner only received \$137.00 in each of those months.

## **MA**

Additionally, clients are eligible for Group 2 MA coverage when their net income less any allowable needs deductions exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (January 2016), p. 1; RFT 240 (December 2013), p. 1. In such cases, the client is eligible for Group 2 MA coverage under the deductible program with the deductible equal to the amount that the client's monthly income exceeds the PIL. BEM 545 (January 2016), p. 11.

The monthly PIL for an MA fiscal group size of one living in Macomb County is \$408.00 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, (December 2013) p 1. Thus, if Petitioner's net income is in excess of \$408.00, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$408.00. There is no dispute that Petitioner's monthly income exceeded \$408.00 and thus she is eligible for Group 2 MA benefits under the deductible program.

In this case, Petitioner's RSDI income is \$1,032.00 per month. The Department alleged that based upon the RSDI income, Petitioner's deductible amount would be \$604.00. When calculating Petitioner's deductible amount, the Department is required to count as

a need item the cost of any health insurance premiums and Medicare premiums paid by Petitioner. (BEM 544 (July 2013), p. 1. The Department properly excluded the Medicare premiums from the budget because the State pays these benefits. Petitioner currently has an ongoing medical expense relating to caregiver expenses, but did not have that expense at the time the Department made its decision. As such, there was no deduction taken for ongoing medical expenses.

After the appropriate deductions are taken, Petitioner's net income is \$1,012.00. Further, because Petitioner's net income of \$1,012.00 exceeds the \$408.00 PIL by \$604.00, the Department properly concluded that Petitioner was eligible for MA benefits subject to a \$604.00 deductible. Petitioner is aware that she is required to submit any ongoing medical expenses to her worker so that the appropriate deductions can be taken.

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 did not act in accordance with policy in calculating Petitioner's FAP benefits in January 2016 and February 2016. However, it is found that the Department acted in accordance with policy with it determined that Petitioner was eligible for MA coverage subject to a \$604.00 deductible.


### **DECISION AND ORDER**

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

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. Recalculate Petitioner's eligibility for FAP benefits as of January 2016, ongoing;
2. Issue supplements Petitioner was eligible to receive but did not as of January 2016, ongoing; and
3. Notify Petitioner in writing of its decision.

JM/hw



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**Jacquelyn A. McClinton**

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]

**Petitioner**

[REDACTED]