



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 18, 2016  
MAHS Docket No.: 16-004627  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

### **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 11, 2016, from Detroit, Michigan. The Petitioner was represented by her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator.

### **ISSUES**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective April 1, 2016?

Did the Department properly calculate Petitioner and her husband's Medical Assistance (MA) deductible effective May 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 and her husband are ongoing recipients of FAP and MA - Group 2 Spend-Down (G2S) benefits.
2. Petitioner and her husband live together and reside in [REDACTED] County.

3. Petitioner receives \$1,455 in monthly Retirement, Survivors and Disability Insurance (RSDI) income and her husband receives \$799 in monthly RSDI income. See Exhibit A, pp. 19-22.
4. On [REDACTED], the Department received Petitioner's redetermination (DHS-1010). See Exhibit A, pp. 7-12.
5. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FAP benefits in the amount of \$16 effective [REDACTED]. See Exhibit A, pp. 13-14. Petitioner's FAP benefits decreased from \$323 to \$16. See Exhibit A, pp. 25 and 29.
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner and her husband that their deductible would be \$1,693 effective [REDACTED]. See Exhibit A, pp. 15-16. The determination notice also indicated that Petitioner's husband received full MA coverage for November 2011. See Exhibit A, p. 15.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's actions. See Exhibit A, pp. 33-34.

### **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.

### **Preliminary matters**

First, in the present case, Petitioner's husband disputed the following: (i) the decrease in Petitioner's FAP benefits from \$323 to \$16 effective [REDACTED]; and (ii) the calculation of their MA deductible in the amount of \$1,693 effective [REDACTED]. See Exhibit A, pp. 25 and 29. The undersigned address each benefit program below.

Second, Petitioner also check marked only the "amount" box in the hearing request under the State Emergency Relief (SER) section. See Exhibit A, p. 2. However, Petitioner did not dispute or address any concerns regarding any SER assistance throughout the hearing. See Exhibit A, p. 2. As such, the undersigned does not address any SER issues below as it appeared to be a mistake when Petitioner check marked the "amount" box under SER section.

### **FAP benefits**

It was not disputed that the certified group size is two and that Petitioner and her husband are senior/disabled/disabled veteran (SDV) members. The Department presented the April 2016 FAP budget for review. See Exhibit A, pp. 29-30.

First, the Department calculated Petitioner's gross unearned income to be \$2,254. See Exhibit A, p. 29. This amount consisted of the following: (i) Petitioner's \$1,455 in RSDI income; and her husband's \$799 in RSDI income. See Exhibit A, pp. 19-22 and 29; and see BEM 503 (October 2015 and April 2016), pp. 28-33. The undersigned finds that the Department properly calculated Petitioner's unearned income in accordance with Department policy. See BEM 503, pp. 28-33. Petitioner and her husband have no other form of income. Therefore, Petitioner and her husband's total income is found to be \$2,254. See Exhibit A, p. 29.

Then, the Department takes into consideration several deductions that factor into the overall calculation of Petitioner's FAP benefits and in which the undersigned addresses below.

First, the Department properly applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (October 2015), p. 1. Also, Petitioner's husband testified that his wife has medical expenses, but acknowledged that the Department properly did not include any medical deduction because he failed to submit such verifications. It should be noted that for groups with one or more SDV member, the Department allows a medical expense deduction that exceeds \$35. See BEM 554 (October 2015), p. 1. Nonetheless, once the Department subtracts the \$154 standard deduction, this results in an adjusted gross income of \$2,100. See Exhibit A, p. 29.

Finally, the Department provides Petitioner with an excess shelter deduction. As such, the Department presented a FAP – Excess Shelter Deduction budget (shelter budget) for the undersigned to review. See Exhibit A, p. 31. The shelter budget indicated that Petitioner's monthly housing expense is \$1,323.78, which the husband did not dispute.

See Exhibit A, p. 31. The Department also provided Petitioner with the \$539 mandatory heat and utility (h/u) standard (Exhibit A, pp. 17-18 (proof of heat and electrical expenses)), which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$539 amount. See Exhibit A, p. 31; BEM 554, pp. 14-15; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$1,863. See Exhibit A, p. 31. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,100 adjusted gross income. Fifty percent of the adjusted gross income is \$1,050. See Exhibit A, p. 31. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$813. See Exhibit A, p. 31.

The Department then subtracts the \$2,100 adjusted gross income from the \$813 excess shelter deduction, which results in a net income of \$1,287. See Exhibit A, pp. 29-30. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be \$16 effective [REDACTED]. RFT 260 (October 2015), p. 17.

### **MA benefits**

In the present case, Petitioner and her husband both live together and reside in Macomb County. Therefore, Petitioner's fiscal group size is two. See BEM 211 (January 2016), pp. 5-8. Moreover, the Department will consider Petitioner and her spouse's total income when determining the calculation of their deductible. See BEM 211, p. 8.

G2S is an Security Income (SSI)-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department presented the MA-G2S budget for the benefit period of May 2016. See Exhibit A, p. 32. The budget represented the same deductible calculations for both Petitioner and her husband. As such, the undersigned reviewed the same budget to determine if the Department properly calculated both Petitioner and her husband's MA deductible effective [REDACTED].

First, the Department properly calculated Petitioner's gross total unearned income to be \$2,254. See Exhibit A, p. 32. As stated previously, this amount consisted of the following: (i) Petitioner's \$1,455 in RSDI income; and her husband's \$799 in RSDI income. See Exhibit A, pp. 19-22 and 29; and see BEM 503, pp. 28-33.

Second, the Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$2,234. BEM 541 (January 2016), p. 3.

Third, the Department offers additional deductions in determining the calculation of the MA deductible, which includes guardianship/conservator expenses, insurance premiums, remedial services, and ongoing medical expenses. See Exhibit A, p. 32. However, the budget did not include any such additional deduction. See BEM 541, pp. 1-7 and BEM 544 (July 2013), pp. 1-4. As such, Petitioner and her husband's total countable income is \$2,234. See Exhibit A, p. 32.

Fourth, 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 (January 2016), p. 1; BEM 166, p. 2; BEM 544, p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of two living in Macomb County is \$541 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$541, may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545 (January 2016), p. 1.

Based on the above policy, Petitioner and her husband's countable income of \$2,234 for MA purposes exceeds the monthly protected income level of \$541 by \$1,693. See Exhibit A, p. 32. Thus, the Department properly calculated Petitioner and her husband's MA – G2S deductible to be \$1,693 effective [REDACTED], in accordance with Department policy.

### **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 (i) acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment in the amount of \$16 effective [REDACTED]; and (ii) acted in accordance with Department policy when it properly calculated Petitioner and her husband's MA – G2S deductible to be \$1,693 effective [REDACTED].

Accordingly, the Department's FAP and MA decision is **AFFIRMED**.

EF/hw

  
Eric Feldman

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]