



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: November 23, 2016
MAHS Docket No.: 16-015134
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 November 16, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] FIM and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly reduce the Petitioner's Food Assistance (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At the hearing, it was determined that as of the Petitioner's request for hearing dated [REDACTED] the Petitioner had full coverage Ad Care medical assistance. And thus, there was no issue with respect to her medical assistance which could be determined at the hearing.
2. The Petitioner was an ongoing recipient of FAP benefits in the amount of \$ [REDACTED]. Exhibit B
3. On [REDACTED] the Department issued a Notice of Case Action which decreased the Petitioner's food assistance to \$ [REDACTED] a month. Exhibit A

4. When previously calculating benefits prior to September 2016, the Department included a medical deduction of \$ [REDACTED] when calculating the Petitioner's Food Assistance budget. At the hearing, it was determined that the Petitioner no longer has an ongoing medical deduction in that amount. Exhibit B
5. The Petitioner has a food assistance group of one person, she pays rent of \$ [REDACTED] monthly and pays for heat and electricity. The Petitioner receives \$ [REDACTED] from Social Security, and is disabled. Exhibit A.
6. The Petitioner requested a timely hearing on [REDACTED], protesting 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.

In this case, the Department reduced the Petitioner's food assistance benefits when it discovered that it was improperly budgeting a \$ [REDACTED] medical deduction that the Petitioner could no longer claim. The Petitioner conceded at the hearing, that she does not have an ongoing medical deduction in this amount. Thereafter, the Department recalculated the Petitioner's food assistance budget and determined that she was eligible for [REDACTED] in food assistance benefits. Exhibit D

At the hearing, the food assistance budget resulting in \$ [REDACTED] a month in food assistance benefits was reviewed in detail with the Petitioner. The following facts were confirmed by the Petitioner. The Petitioner currently receives \$ [REDACTED] from Social Security and is disabled. The Petitioner pays rent of \$ [REDACTED], and received from the Department, a heat and utility allowance of \$ [REDACTED]. The Petitioner's total housing costs were \$ [REDACTED] consisting of rent and the utility allowance contained in the budget. The Petitioner also received a \$ [REDACTED] standard deduction based upon her food assistance group size of one member. See Exhibit D.

At the hearing, the Department presented the FAP EDG Net Income Results Budget for [REDACTED], which was reviewed to determine if the Department properly

concluded that Petitioner was eligible to receive \$ [REDACTED] in monthly FAP benefits. Exhibits B and C.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1 – 4. The Department considers the gross amount of money earned from RSDI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2016), pp. 27.

The Department concluded that Petitioner had unearned income of \$ [REDACTED], which it testified came from Social Security RSDI. Petitioner confirmed that she receives \$ [REDACTED] monthly. Therefore, the Department properly calculated Petitioner's gross income. The gross income is \$ [REDACTED]. Department properly applied the \$ [REDACTED] standard deduction. RFT 255 (October 2016), p. 1. When the standard deduction is deducted, this leaves \$ [REDACTED] in unearned income. ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$).

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of her FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that she had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. In this case for the month in question, October 2016, the Petitioner did not report any medical expenses to the Department thus none were applied. The Petitioner testified that she had recently (within the past two weeks) provided the Department new medical expenses which were not included in the October FAP budget calculations.

In calculating Petitioner's excess shelter deduction, the Department considered Petitioner's \$ [REDACTED] monthly rental/housing expenses and provided a heat and electricity allowance of \$ [REDACTED] found in RFT 255 (October 1, 2016) p. 1. (Exhibit D). The total housing expenses were \$ [REDACTED]. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was

eligible for an excess shelter deduction of \$[REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1. This is determined by deducting one half of the adjusted gross income ($\$[REDACTED] \div 2 = \$[REDACTED]$ from the shelter expenses of \$[REDACTED]) which results in an excess shelter deduction of \$[REDACTED]. The \$[REDACTED] is then deducted from the adjusted gross income and leaves net income of \$[REDACTED], which is the income amount the FAP benefits are based on. Based on net income of \$[REDACTED] and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$[REDACTED]. BEM 556; RFT 260 (October 2016), p. 8.

Based upon the evidence presented, the Department correctly reduced the Petitioner's FAP benefits due to its improper deduction for medical expense, which was corrected in the October 2016 budget. Department policy found in BEM 554 sets out the policy regarding allowable FAP expenses, including medical expenses. The Petitioner, because she is disabled, is identified as an SDV individual who is entitled to deduct medical expenses when her FAP benefits are being calculated. Certain expenses are used to determine net income for FAP eligibility. For SDV groups the FAP budget contains expenses based upon shelter costs and medical expenses for the SDV member that exceed \$35. BEM 554, (June 1, 2016) p. 1.

Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.
- Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.
- Prescription drugs and the postage for mail-ordered prescriptions.
- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).
- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s).
- Medicare premiums.

- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dtmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High Cost Cities using the rate for the current year.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it **must** be treated as a medical expense. BEM 554, pp. 9, 10, 11.

When determining medical expenses for FAP budgets the Department must:

Estimate an SDV person's medical expenses for the benefit period. The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow **only** the non-reimbursable portion of a medical expense. The medical bill cannot be overdue.

The medical bill is **not** overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue. BEM 554, p. 11.

As discussed at the hearing, the Petitioner may submit medical expenses to the Department as they are incurred, so that they may be applied to the FAP budget medical expense deduction if an eligible medical expense.

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 acted in accordance with Department policy when it reduced the Petitioner's FAP benefits to \$■.

Accordingly, the Department's decision is

AFFIRMED as regards the Petitioner's FAP benefit reduction

The Petitioner's request for hearing regarding changes in her medical assistance is also hereby **DISMISSED** as no change had occurred to Petitioner's MA coverage as of her hearing request, thus there is nothing to be decided regarding this issue.

LF/hw



Lynn M. Ferris

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]