



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: December 6, 2016  
MAHS Docket No.: 16-015958  
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 November 28, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist. [REDACTED], Family Independence Manager also appeared on behalf of the Department as an observer.

**ISSUE**

Did the Department properly decrease Petitioner's FAP benefits to [REDACTED] per month effective [REDACTED]?

Did the Department properly approve Petitioner and her husband for MA benefits submit to a 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 and her son began receiving unearned income in June 2016.
3. Petitioner timely reported the change to the Department.

4. The Department did not budget new unearned income until August 2016.
5. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would decrease to [REDACTED] per month.
6. Also as a result of the increased household income, the Department sent Petitioner a Health Care Coverage Determination Notice on [REDACTED] which informed Petitioner that her husband had been approved for MA benefits subject to a [REDACTED] monthly deductible and that she had been approved for MA benefits subject to a [REDACTED] deductible.
7. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions relating to both programs.

### **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**

In this case, Petitioner and her son began receiving RSDI income in June 2016. Petitioner's husband had been receiving RSDI income, and his income was the only income being budgeted by the Department. Although not immediately, the Department redetermined Petitioner's eligibility for FAP benefits based on the additional unearned income.

Additionally, the Department is required to periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 210 (July 2016), p. 1. In this case, Petitioner verbally requested a hearing to dispute the decrease in his Food Assistance Program benefits.

Petitioner receives [REDACTED] per month in RSDI income. Petitioner's husband receives [REDACTED] per month in RSDI income. Petitioner's son receives [REDACTED] per month in RSDI income. As such, the total unearned income for the group is [REDACTED]. The Department presented a FAP net income budget in support of its position that it properly reduced Petitioner's FAP benefits. Based on Claimant's circumstances, she was eligible to receive a standard deduction of [REDACTED] based on her three person group size. RFT 255, p. 1. (July 2016). Petitioner was also eligible for a shelter deduction in the amount of [REDACTED]. BEM 556, pp. 4-5. (July 2013). Petitioner's husband pays child support in the amount of [REDACTED], which is allowed to be deducted from the group's total income. When the standard deduction, shelter deduction and child support payments are subtracted, the group's net income amount is [REDACTED].

On [REDACTED], the Department sent Petitioner a Notice of Case Action which notified her that her FAP benefits would decrease to [REDACTED] monthly effective [REDACTED]. Based on the information available to the Department at the time it redetermined the group's eligibility for FAP benefits, and based upon a net income of [REDACTED], it properly determined that Petitioner was entitled to a FAP benefit amount of [REDACTED] per month. RFT 260 (October 2015), p. 21.

#### MA

Petitioner filed a Request for hearing to dispute the deductible amount as determined by the Department. G2C is a FIP-related Group 2 MA category. BEM 135 (July 2013), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for FIP-related groups in BEM 211. BEM 135, p. 2. BEM 211 states a child's income cannot be used to determine a parent's eligibility. BEM 211 (July 2013), p. 5. In summary, the Department will only use both the Claimant's and spouse's income in the G2C calculation. See BEM 211, p. 5.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (January 2014), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for

each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for Petitioner and her spouse. See BEM 536, p. 1.

The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Petitioner's spouse's number of dependents is two (spouse, plus one minor child). The Department then adds 2.9 to Petitioner's spouse's number of dependents (two), which results in a prorated divisor of 4.9. BEM 536, p. 4. The Department will then divide the person's total net income by the prorated divisor, which results in the adult's prorated share.

Each adult is budgeted separately. As such, the Department presented a separate budget for Petitioner and her husband. In the budget for Petitioner's husband, the Department determined his individual prorated income as [REDACTED]. Using the aforementioned formula, this is incorrect. Petitioner's husband receives [REDACTED] in RSDI income. This would result in an adult prorate share amount of [REDACTED] ([REDACTED] divided by 4.9).

The Department determined that the spouse's prorated income to be [REDACTED]. Using the aforementioned formula, this is correct. Petitioner (who is the spouse for purposes of her husband's budget) receives [REDACTED] in RSDI income. When [REDACTED] is divided by 4.9, it produces a spouse's prorated income of [REDACTED]. Because the Department failed to properly calculate Petitioner's husband's individual prorated income, it is found that the Department incorrectly determined that Petitioner's husband was eligible for MA benefits subject to a [REDACTED] deductible.

The Department also submitted a budget on behalf of Petitioner. As mentioned earlier, when it submitted the budget for Petitioner's husband, it included the spouse's prorated income, using Petitioner's correct RSDI income. However, the budget submitted by the Department relating to Petitioner, lists her income as \$0.00. This is clearly incorrect. As such, it is found that the Department incorrectly determined that Petitioner was eligible for MA benefits subject to a [REDACTED] deductible. Additionally, Petitioner's deductible would not be lower than her husband's given that she receives more in RSDI income than her husband.

### **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 decreased Petitioner's FAP benefits to [REDACTED] per month effective [REDACTED].

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 Department policy when it concluded that Petitioner was eligible

for MA benefits subject to a [REDACTED] monthly deductible; and also did not act in accordance with policy when it concluded that Petitioner's husband was eligible for MA benefits subject to a [REDACTED] monthly deductible.

Accordingly, the Department's decision is **AFFIRMED** relating to its decision to decrease Petitioner's FAP benefits to [REDACTED] effective [REDACTED].

The Department's decision is **REVERSED** relating to its [REDACTED] decision relating to Petitioner and her husband's MA 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. Redetermine Petitioner's eligibility for MA benefits effective [REDACTED];
2. Issue supplements she was eligible to receive, but did not, effective [REDACTED];
3. Redetermine Petitioner's husband's eligibility for MA benefits effective [REDACTED];
4. Issue supplements to Petitioner's husband that he was eligible to receive but did not effective [REDACTED]; and
5. 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]