



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.: 16-016063  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

**ISSUES**

The first issue is whether MDHHS resolved Petitioner's dispute concerning a termination of Medical Assistance (MA) benefits.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

**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 MA and FAP benefits.
2. Petitioner was the only member of her household.
3. On [REDACTED], MDHHS determined Petitioner's FAP eligibility, effective October 2016, in part, by factoring \$0 medical expenses and a rental obligation of [REDACTED].

4. On an unspecified date in October 2016, Petitioner reported to MDHHS a rental obligation of [REDACTED]/month.
5. On an unspecified date, MDHHS terminated Petitioner's MA eligibility, effective November 2016,
6. On [REDACTED], Petitioner requested a hearing to dispute the termination of MA benefits and her FAP eligibility for October 2016.
7. On [REDACTED], MDHHS reinstated Petitioner's MA eligibility.

### **CONCLUSIONS OF LAW**

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of MA eligibility. It was not disputed the MA termination affected Petitioner's Medicaid and Medicare Savings Program (MSP) eligibility. It was not disputed that both MA programs were scheduled for termination beginning November 2016. MDHHS did not present a notice verifying a potential termination or a basis for termination; as it happened, one was not necessary.

MDHHS testimony indicated Petitioner's MA eligibility was terminated after Petitioner tardily submitted redetermination documents. MDHHS testimony also indicated Petitioner's MA eligibility was reinstated so that there was no lapse in coverage.

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 5-8) dated [REDACTED]. The notice approved Petitioner for Medicaid and MSP benefits beginning November 2016. The notice sufficiently verified Petitioner's MA eligibility was fully reinstated.

Petitioner reasonably queried why her most recent payment from Social Security Administration was reduced if her MSP eligibility was reinstated. It is known that SSA does not always immediately process MSP approvals. It is also known that SSA will retroactively reimburse clients when there is a delay in processing. Thus, Petitioner should expect to eventually be reimbursed by SSA based on the reinstatement of MSP eligibility. It is found MDHHS resolved Petitioner's MA dispute by reinstating Medicaid and MSP benefits for Petitioner.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP eligibility, effective October 2016. Petitioner's general complaint was that MDHHS reduced her FAP eligibility from [REDACTED]/month to [REDACTED] month.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED]. The presented notice stated Petitioner was eligible for [REDACTED] in FAP benefits beginning October 2016. Two reasons were stated on the notice for the newly determined FAP benefit.

The notice stated Petitioner's FAP eligibility was reduced, in part, due to a change in shelter deduction or income. MDHHS testimony indicated the change was a result of a "mass update."

The notice also stated Petitioner's medical expenses were reduced. MDHHS testimony indicated previous FAP determinations erroneously factored over [REDACTED] in medical expenses.

The MDHHS explanations for the FAP reduction was somewhat credible. To determine whether the FAP determination for October 2016 was correct, previous FAP eligibility need not be considered. The Notice of Case Action included a budget summary (see Exhibit 1, p. 2) listing all FAP budget factors for October 2016. During the hearing, each factor was discussed with Petitioner.

BEM 556 details the calculations for determining FAP eligibility. Those calculations will be applied to the below analysis.

MDHHS factored an [REDACTED]/month gross unearned income for Petitioner. Petitioner conceded the amount to be correct as long as MDHHS pays for her Medicare premium; it was established in the above analysis that Petitioner was approved for MSP benefits. Thus, [REDACTED] is the proper amount to budget for Petitioner's unearned income.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above

█████ for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner's son was a SDV member.

Verified countable medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care or child support expenses. Petitioner estimated her monthly medical expenses to be █████. Following a █████ copayment for medical expenses, Petitioner's countable medical expenses are █████.

Petitioner's FAP benefit group size justifies a standard deduction of █████ (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be █████.

MDHHS budgeted Petitioner's rent to be █████. Petitioner alleged her rental obligation was █████ but it recently increased to █████.

It was not disputed Petitioner submitted her █████ rental verification to MDHHS on █████. Petitioner testimony conceded she reported the obligation to MDHHS in October 2016.

[For FAP benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2016), p. 7. If verification is returned late, the increase must affect the month after verification is returned. *Id.*

Whatever Petitioner's report date was, a reporting in October 2016 does not justify a change to Petitioner's FAP eligibility for October 2016. Accordingly, MDHHS properly determined Petitioner's rental obligation to be █████ for purposes of October 2016 FAP eligibility.

MDHHS credited Petitioner with a utility standard of █████ (see RFT 255). The utility standard incorporates all utilities and is the maximum credit available. Petitioner's total shelter expenses (housing + utilities) are found to be █████.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be █████ (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be █████. A chart listed in RFT 260 is used to determine

the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance for October 2016 is found to be [REDACTED], the same amount calculated by MDHHS.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS resolved Petitioner's MA eligibility dispute concerning a termination of MA benefits to be effective November 2016. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for [REDACTED] in FAP benefits for October 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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**Christian Gardocki**  
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]