



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: January 6, 2017  
MAHS Docket No.: 16-018244  
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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUE**

Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?

### **FINDINGS OF FACT**

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

1. The Petitioner was an ongoing recipient of FAP benefits. After a redetermination review in [REDACTED], the Department discovered an error by the Department which continued a medical expense deduction in the amount of \$ [REDACTED] when it should not have continued.
2. At redetermination, the Petitioner reported medical expenses of Medicare Part B premium in the amount of \$ [REDACTED] and a Part D premium of \$ [REDACTED]
3. The Petitioner is disabled. The Petitioner and his wife are an FAP group of two members. The Petitioner receives Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED]

4. The Petitioner has a housing expense of \$ [REDACTED] and received a heat and utility (h/u) allowance of \$ [REDACTED]. The total shelter expense used to calculate FAP benefits \$ [REDACTED]. The Petitioner received an Excess Shelter Deduction of \$ [REDACTED]. Exhibit E.
5. The Department issued a Notice of Case Action dated [REDACTED], reducing the Petitioner's FAP benefits to \$ [REDACTED]. The Petitioner had previously received FAP benefits in the amount of \$ [REDACTED]. Exhibit C.
6. The Petitioner requested a timely hearing [REDACTED], protesting the Department's reduction of his FAP benefits.

### **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, Petitioner disputed the amount of his FAP benefits and their reduction. 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 D and E). The Petitioner's FAP benefits were reduced after a redetermination because the medical expense deduction was reduced from \$ [REDACTED] to \$ [REDACTED] causing the reduction in FAP benefits.

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 or received from RSDI social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The Department concluded that Petitioner had unearned income of \$ [REDACTED] which was not disputed by the Petitioner. Although the Department did not present a State Online Query (SOLQ) in support of its testimony, Petitioner confirmed that Petitioner receives these amounts, and they were correct. Therefore, the Department properly calculated Petitioner's gross income.

The deductions to income on the net income budget were also reviewed. Petitioner has an FAP group of two members and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), 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. 7; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income; and there was no evidence presented that he had any dependent care, child support. The Petitioner was credited with medical expenses for his part B premium and Part D premiums, which were totaled and credited once \$█ was deducted, resulting in medical expenses of \$█. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support and the medical expenses credited were correct. Based on his confirmed two-person group size, the Department properly applied the \$█ standard deduction. RFT 255 (October 2014), p. 1.

When the medical expenses, of \$█ and the Standard Deduction of \$█ are deducted from the gross income it is determined that the Department correctly determined the Adjusted Gross Income to be \$█ ( $\$█ - \$█ - \$█ = \$█$ ) Exhibit D.

During the hearing, the issue of medical expenses arose because the Petitioner had previously been credited with ongoing medical expenses of \$█ a month, which was inaccurate as they were no longer being incurred. Medical Expenses are a deductible expense when calculating the FAP benefits as the Petitioner is disabled.

Department policy regarding Medical Expenses with regard to calculating FAP benefits is found in BEM 554, which provides:

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons; see Expenses for Disqualified or Ineligible Persons in this item. Estimate an SDV person's medical expenses for the benefit period. Base the estimate on all of the following:

- Verified allowable medical expenses.
- Available information about the SDV member's medical condition and health insurance.

- Changes that can reasonably be anticipated to occur during the benefit period. BEM 554 (June 1, 2016), p.8.

### **One-Time-Only Expenses**

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Bridges will allow the expense in the first benefit month the change can affect.

### **Allowable Medical Expenses**

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](http://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.
- A Medicaid deductible is allowed if the following are true.

The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.

The medical expenses are not overdue. See below.

**Note:** Medical marijuana is **not** an allowable medical expense.

#### **Estimating and Determining an Allowable Medical Expense**

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. 7-12.

The Petitioner expressed concern at the hearing that his caseworker did not include certain medical expenses that he provided to the Department on [REDACTED]. Based upon a review of those expenses that appeared to be for vitamins and non-prescription over-the-counter items not ordered by a doctor, the Department correctly did not include those items as medical expenses. The extensive list included above is to assist the Petitioner to determine in the future what expenses are eligible to be included in his FAP benefits deductions. The Petitioner may provide the Department

monthly expenses as they are incurred and may also have some expenses that are ongoing included every month upon proper verification.

The last calculation to determine the FAP benefit allotment is the excess shelter deduction

In calculating Petitioner's excess shelter deduction, the Department considered Petitioner's \$ [REDACTED] monthly rental/housing expenses and \$ [REDACTED] h/u allowance, as the Petitioner pays for heat. See BEM 554, pp. 16-19. 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.

In determining monthly net income of \$ [REDACTED] 50 percent of the adjusted gross income is deducted from the shelter expenses of \$ [REDACTED] ( $\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$ ). The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income. ( $\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$ ). Based on net income of \$ [REDACTED] and an FAP group size of two members, 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. See Exhibits D and E.

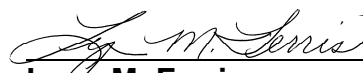
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits.

### 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 calculated the Petitioner's FAP benefit amount.

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



**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]

**Petitioner**

[REDACTED]

**Via email**

[REDACTED]