



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 17, 2017
MAHS Docket No.: 17-000776
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 February 15, 2017, from Detroit, Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist; and [REDACTED], Assistant Payment Supervisor.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits to [REDACTED] effective January 1, 2017?

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 recipient of FAP benefits.
2. On an unspecified date, the Department reviewed Petitioner's FAP case and discovered that it had been budgeting, in error, [REDACTED] in medical deductions for Mrs. [REDACTED] (Petitioner) and her spouse, [REDACTED]. Exhibit A, pp. 1 and 33.
3. The Department removed the medical deductions from Petitioner's FAP budget, which resulted in a decrease in her benefits. Exhibit A, pp. 1 and 33.

4. Petitioner's FAP benefits decreased to [REDACTED] effective January 1, 2017.
5. On January 12, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to [REDACTED] effective February 1, 2017. Exhibit B, pp. 1-4.
6. On January 18, 2017, Petitioner's AHR filed a hearing request, protesting the reduction in benefits. Exhibit A, p. 2.

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.

As a preliminary matter, on January 12, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to [REDACTED] effective February 1, 2017. Exhibit B, pp. 1-4. However, it was not disputed by either party that Petitioner's FAP benefits decreased to [REDACTED] effective January 1, 2017. The Department presented both the January 2017 and February 2017 FAP budgets for review. Exhibit A, pp. 36-41. Both budgets included the same calculations; therefore, the undersigned Administrative Law Judge (ALJ) addresses both benefits periods below:

First, it was not disputed that the certified group size is two and that Petitioner and her spouse are both senior/disabled/disabled veteran (SDV) members.

Second, the Department properly calculated the gross unearned income to be [REDACTED], which the AHR did not dispute. Exhibit A, pp. 36 and 39 and BEM 503 (January 2017), pp. 28-33.

Third, the Department properly applied the [REDACTED] standard deduction applicable to Petitioner's group size of two. Exhibit A, pp. 36 and 39 and RFT 255 (October 2016), p. 1.

Fourth, the Department also determined that Petitioner was not eligible for the medical deduction, which the AHR disputed. Exhibit A, pp. 36 and 39. The AHR testified that she was faxing medical expenses every month to the Department. The AHR testified

that she has medical bills to provide to the Department. The AHR testified that the Department would not accept the bills because they have to be current. The AHR testified that she received a letter indicating the FAP benefits went back to [REDACTED], but then another mistake occurred and the benefits were subsequently reduced again to [REDACTED]. The AHR accused the Department of misleading her. The AHR testified that the Department was incorrect when it stated it had no medical bills from 2016. The AHR indicated that Petitioner and her spouse owe more than [REDACTED] in medical expenses.

The Department testified that Petitioner was previously receiving a medical deduction in the amount of [REDACTED] Exhibit A, pp. 1 and 33. However, the Department testified that it reviewed the six medical expenses that were being budgeted and determined the six expenses were being budgeted incorrectly. The Department testified that it was budgeting Medicare Part B premiums that Petitioner and her spouse are not responsible to pay for and the remaining expenses were old bills from 2012; thus, the Department removed the medical expenses from the FAP budget.

Based on the above information, the undersigned ALJ finds that the Department properly removed these medical expenses from the FAP budget because both the Petitioner and her spouse were no longer responsible for their Medicare premiums and the remaining bills were considered to be old bills/one-time-only expenses. See Exhibit A, pp. 16-18, 21-23, 26, and 28-32.

Additionally, the Department reviewed Petitioner's medical expenses to see if it could budget any other medical expenses; however, the Department discovered that Petitioner had not submitted any new medical bills since 2015. See Exhibit A, pp. 25-27. As a result, the Department testified that it re-ran Petitioner's eligibility and the expenses amounting up to [REDACTED] were no longer being budgeted and the benefits were reduced. Exhibit A, p. 1.

On January 17, 2017, the AHR called the Department to inquiry about the reduction and the Department explained the error in the medical deduction and informed her to send any current medical bills to see if they would change the FAP benefit amount. Exhibit A, p. 1.

On January 18, 2017, the AHR filed the hearing request and also included 10 medical bills to be applied to the FAP budget. Exhibit A, pp. 1 and 54-64. However, the Department reviewed the submitted medical bills and determined that the bills could not be budgeted because they were not current.

Policy states that for groups with one or more SDV member, the Department allows medical expenses that exceed [REDACTED] BEM 554 (January 2017), p. 1.

The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The expense does not have to be paid to be allowed. BEM 554, p. 11. The Department allows medical expenses when verification of the portion paid, or to be

paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department allows only the non-reimbursable portion of a medical expense. BEM 554, p. 11. The medical bill cannot be overdue. BEM 554, p. 11.

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.

The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. The Department does not verify other factors, unless questionable. BEM 554, p. 11. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. BEM 554, p. 11.

Based on the foregoing information and evidence, the undersigned ALJ finds that the Department properly determined that Petitioner was not eligible for the medical expense deduction effective January 1, 2017, in accordance with Department policy. BEM 554, pp. 1-11. As stated above, policy states that in order for the Department to budget an allowable medical expense, the medical bill cannot be overdue. See BEM 554, p. 11. Policy further states that the medical bill is not overdue if it is either currently incurred, currently billed, or the client made a payment arrangement before the medical bill became overdue. See BEM 554, p. 11. The undersigned ALJ reviewed the medical bills Petitioner submitted on January 18, 2017 and agrees with the Department's determination that it could not budget the bills because they were either not currently incurred or they were in collections; therefore, the Department properly determined that the submitted bills were not allowable medical expenses in accordance with Department policy. See Exhibit A, pp. 54-64 and BEM 554, p. 11. It should be noted that Petitioner submitted additional medical expenses in February 2017; however, the undersigned ALJ will not review these medical expense because they were submitted subsequent to the hearing request.

Once the Department subtracts the [REDACTED] standard deduction and \$0 medical deduction, this results in an adjusted gross income of [REDACTED]. Exhibit A, pp. 36-41.

Next, the Department also provides Petitioner with a shelter deduction, which consists of housing costs and utility expenses. The Department properly determined that Petitioner's housing costs was [REDACTED] and that she was only eligible for the [REDACTED] non-heat

electric standard, ■■■ trash/garbage removal standard, and the ■■■ telephone standard deductions. Exhibit A, pp. 38 and 41; BEM 554, pp. 12-25; 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 ■■■ Exhibit A, pp. 38 and 41. Then, the Department subtracts the total shelter amount from fifty percent of the ■■■ adjusted gross income. Fifty percent of the adjusted gross income is ■■■. Exhibit A, pp. 38 and 41. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be ■■■ Exhibit A, pp. 38 and 41.

Finally, the Department subtracts the \$■■■ adjusted gross income from the ■■■ excess shelter deduction, which results in a net income of ■■■. Exhibit A, pp. 37 and 40. 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 ■■■ effective January 1, 2017. RFT 260 (October 2016), p. 12.

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 properly decreased Petitioner's FAP allotment to ■■■ effective January 1, 2017.

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

EF/tm



Eric J. 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]
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CC: [REDACTED]
[REDACTED]