



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: March 30, 2017
MAHS Docket No.: 17-002648
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 March 27, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Manager.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits to [REDACTED] effective March 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 benefits.
2. Prior to March 2017, Petitioner was responsible for her Medicare premium and the Department budgeted her expenses as a medical deduction in the FAP budget. Exhibit A, pp. 1, 3-4, and 6.
3. Effective March 1, 2017, Petitioner was no longer responsible for her Medicare premium because the State of Michigan began to pay for her premium. Exhibit A, p. 1.

4. The Department removed Petitioner's Medicare expense as a medical deduction from the FAP budget, which resulted in the decrease in her FAP benefits. Exhibit A, p. 1.
5. On February 7, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to [REDACTED] March 1, 2017. Exhibit A, pp. 10-13.
6. On February 14, 2017, Petitioner filed a hearing request, protesting the Department's action. 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.

In the present case, the Department decreased Petitioner's FAP benefits to [REDACTED] effective March 1, 2017. Exhibit A, p. 8. As such, Petitioner disputed the decrease in benefits and the undersigned Administrative Law Judge (ALJ) will address this issue below:

First, it was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member.

Second, the Department calculated Petitioner's gross unearned income to be [REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI), which she did not dispute. Exhibit A, p. 8 and BEM 503 (January 2017), p. 28.

Next, the Department properly applied the [REDACTED] standard deduction applicable to Petitioner's group size of one. Exhibit A, p. 8 and RFT 255 (October 2016), p. 1. The Department also calculated Petitioner's medical deduction to be \$0. Exhibit A, p. 8. As stated in the *Findings in Fact* section, Petitioner was no longer responsible for her Medicare premium because the State of Michigan began to pay for her premium. Exhibit A, p. 1. As such, the Department removed Petitioner's Medicare expense as a medical deduction from the FAP budget, and the Department was no longer budgeting any medical deductions. Exhibit A, pp. 1 and 8.

In response, Petitioner did not dispute that she was no longer responsible for her Medicare premium. However, Petitioner testified that she is responsible for other medical expenses that should be eligible for a deduction, including her Lifeline medical alert system, prescription drug co-pays, dentures, and over-the-counter medications. Petitioner, though, testified this was her first time reporting to the Department of her other medical expenses.

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.

During the benefit period, a FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554, p. 8. Process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

BEM 554, p. 8.

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 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 did not budget any medical deductions effective March 1, 2017. It was not disputed that Petitioner is no longer eligible for a Medicare premium deduction. However, as to Petitioner's remaining medical expenses that she alleged during the hearing, the Department properly did not reflect these expenses as a deduction in the budget. Policy states that 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. At the time Petitioner's FAP budget for March 2017 was calculated,

Petitioner never reported any of her medical expenses to the Department. In fact, Petitioner did not report these medical expenses until the hearing was conducted. As such, the Department properly did not include these medical expenses in the March 2017 FAP budget because these expenses were never reported to the Department at the time the budget was calculated. Therefore, the Department properly determined that Petitioner did not have any medical deductions for March 2017 in accordance with Department policy. BEM 554, p. 11. But, it should be noted that the Department is now of aware Petitioner's reported medical expenses she stated during the hearing.

Once the Department subtracts the [REDACTED] standard deduction, this results in an adjusted gross income of [REDACTED] Exhibit A, p. 8.

Also, the Department provides Petitioner with an excess shelter deduction. The FAP – Excess Shelter Deduction budget (shelter budget) indicated that Petitioner's monthly housing expense is [REDACTED] which she did not dispute. Exhibit A, p. 9. The Department also provided Petitioner with the [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the [REDACTED] amount. Exhibit A, p. 9; BEM 554, pp. 14-16; and 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 [REDACTED] Exhibit A, p. 9. Then, the Department subtracts the total shelter amount from fifty percent of the [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is [REDACTED]. Exhibit A, p. 9. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be [REDACTED] Exhibit A, p. 9.


The Department then subtracts the [REDACTED] adjusted gross income from the [REDACTED] excess shelter deduction, which results in a net income of [REDACTED]. Exhibit A, p. 8. 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 [REDACTED] effective March 1, 2017. RFT 260 (October 2016), p. 5.

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 benefits to [REDACTED] effective March 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]