



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: July 7, 2017  
MAHS Docket No.: ██████████ 17-006720  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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; 42 CFR 438.400 to 438.424; 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 ██████████, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP), State Disability Assistance (SDA) and State Emergency Relief (SER) benefits?

Did the Department properly calculate the amount of Petitioner's Medical Assistance (MA) 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 recipient of FAP and MA benefits.
2. Petitioner is not an ongoing recipient of SDA and SER benefits and did not submit an application for SDA or SER benefits prior to her hearing request.
3. Petitioner was approved for MA under the Group 2 Aged Blind Disabled (G2S) category with a monthly deductible of ██████████.

4. Petitioner receives gross monthly Retirement Survivors Disability Insurance (RSDI) benefits in the amount of [REDACTED]. (Exhibit B)
5. On [REDACTED] Petitioner requested a hearing disputing the Department's actions with respect to the FAP, SER, SDA, and MA programs.
6. Petitioner verbally withdrew her hearing request regarding the FAP.

### **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).

#### **FAP**

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 hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP benefits. Soon after commencement of the hearing, Petitioner testified that there was no issue left to resolve regarding her FAP benefits as Petitioner testified that she understands the actions taken by the Department concerning the FAP and confirmed that she did not wish to proceed with the hearing. Petitioner further confirmed that no promises were made in exchange for her withdrawal. The Request for Hearing was withdrawn. As such, the Request for Hearing with respect to FAP is, hereby, **DISMISSED**.

#### **SDA/SER**

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2016), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

In the present case, Petitioner requested a hearing on [REDACTED], and checked the box indicating she disputed the Department's actions with respect to the SDA and SER programs. At the hearing, Petitioner confirmed that prior to her hearing request, she had neither submitted an application for SDA or SER benefits nor had she been an active and ongoing recipient of SDA or SER benefits with the Department. Thus, Petitioner failed to establish that the Department had taken any negative action on her SDA or SER cases prior to the hearing request. Therefore, because the Department had neither determined Petitioner's eligibility for SDA or SER benefits nor had the Department taken any negative action with respect to Petitioner's SDA or SER benefits prior to her hearing request; Petitioner's hearing request with respect to SDA and SER is **DISMISSED** for lack of jurisdiction.

### **MA**

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.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Specifically, Petitioner clarified that at issue was the amount

of her deductible as she indicated she was unable to be admitted to a treatment facility. The Department testified that Petitioner had been approved for MA under the G2S category and that the current amount of her deductible was [REDACTED].

Petitioner, who receives RSDI and is enrolled in Medicare, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (October 2016), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (January 2017), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one (Petitioner) living in [REDACTED] County is [REDACTED] per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the [REDACTED], she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds [REDACTED]. BEM 545, p 1.

The Department produced a SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit A). The Department testified that it determined Petitioner had unearned income in the amount of [REDACTED], which consisted of her gross monthly RSDI benefit. Although Petitioner testified that a certain portion of her RSDI benefit is withheld, the SOLQ presented shows gross monthly RSDI of [REDACTED]. (Exhibit B). Additionally, the documentation from the Social Security Administration presented by Petitioner shows that effective [REDACTED] the gross amount of her benefit is [REDACTED] (Exhibit 1). The budget shows that the Department properly subtracted the [REDACTED] unearned income general exclusion to determine that Petitioner had net income for MA purposes of [REDACTED]. The budget shows a deduction of [REDACTED] which the Department testified was for applicable insurance premiums. There was no evidence presented that Petitioner was were entitled to any other deductions to income. BEM 530, pp 1-4; BEM 541, pp. 2-3.

Although Petitioner testified that she submitted medical expenses to the Department to be applied to her monthly deductible, the Department testified that the expenses provided consisted of bills for services in [REDACTED] which had already been processed. There was additional information submitted by Petitioner to the Department during the hearing for service date of [REDACTED]. Thus, should Petitioner dispute the processing or alleged failure to process those expenses, Petitioner is required to submit a new hearing request as that is determined to be a subsequent action.

As such, because Petitioner's countable income of [REDACTED] for MA purposes exceeds the monthly protected income level of [REDACTED], the Department properly calculated Petitioner's monthly [REDACTED] MA deductible in accordance with Department policy.

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 amount of Petitioner's MA deductible.

**DECISION AND ORDER**

Accordingly, the hearing request with respect to FAP, SDA and SER is **DISMISSED** and the Department's MA decision is **AFFIRMED**.



ZB/tlf

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**Zainab A. Baydoun**  
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

**Via Email:**

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

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED]  
[REDACTED]