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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: April 6, 2017
MAHS Docket No.: 17-002976
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 30, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and her spouse, [REDACTED] and both provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] Specialist; and [REDACTED], Hearings Facilitator/Assistant Payment Supervisor.

ISSUES

Did the Department properly provide Child A with Supplemental Security Income (SSI) - Medical Assistance (MA) coverage she is eligible to receive from February 1, 2017 to February 28, 2017?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective January 5, 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. Child A (date of birth July 19, 2006) received full SSI-MA coverage for February 1, 2017 to February 28, 2017 (under Case No. 115635664). Exhibit B, pp. 60 and 62-63.
2. On January 4, 2017, Petitioner applied for FAP benefits. Exhibit B, pp. 1-54.

3. In the application, Petitioner reported the following: (i) the total amount of income the household will receive is [REDACTED]; (ii) total amount her household will pay for housing is [REDACTED] (iii) her household size is six; Child A is disabled; (iv) Petitioner and her spouse were employed and no indication that either employments ended; (v) Child A receives SSI monthly income of [REDACTED]; (vi) she reported rent or lot rent for housing bills of [REDACTED] monthly; (vii) reported no medical bills for Child A; and (viii) did not report any dependent care bills. Exhibit B, pp. 3-9, 21, 27, 29, 31, and 32.
4. The Department processed the application and determined Petitioner was ineligible due to excess income.
5. On January 5, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were denied effective January 5, 2017, due to excess income. Exhibit A, pp. 19-20.
6. On March 1, 2017, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

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.

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.

Preliminary matters

First, Petitioner wrote in the hearing request that she wanted a new caseworker. Exhibit A, p. 3. However, the undersigned Administrative Law Judge (ALJ) lacks any jurisdiction to address Petitioner's concerns for a new caseworker. See BAM 600 (October 2016), pp. 1-6.

Second, Petitioner disputed the denial of multiple FAP applications that she has previously submitted. Other than the application Petitioner recently submitted in January of 2017, she testified that she also submitted another application in June of 2016. Again, though, the undersigned lacks the jurisdiction to address the denial of her application dating back to June of 2016. BAM 600, p. 6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

Third, based on Petitioner's hearing request and testimony, she is disputing the following: (i) whether the Department properly provided Child A with SSI - MA coverage she is eligible to receive from February 1, 2017 to February 28, 2017; and (ii) whether the Department properly denied Petitioner's FAP application effective January 5, 2017. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

MA coverage

First, Petitioner and her spouse argued that the Department failed to provide Child A with MA coverage for February 2017. In February 2017, the Petitioner/spouse indicated that they went to obtain Child A's medication (i.e., at the drug store) and that Child A's MA benefits should cover the expenses. However, they were informed Child A's MA coverage was closed, which resulted in them paying █████ out-of-pocket for her medications. Exhibit A, p. 2.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (October 2016), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1. The Medicaid program comprise several sub-programs or categories. BEM 105, p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1.

SSI is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (October 2015), p. 1. The Social Security Administration (SSA) determines SSI eligibility. BEM 150, p. 1.

To be automatically eligible for MA an SSI recipient must both:

- Be a Michigan resident.
- Cooperate with third-party resource liability requirements.

BEM 150, p. 1. The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150, p. 1. Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150, p. 1. Some clients also qualify for retroactive (retro) MA coverage for up to three calendar months prior to SSI entitlement; see BAM 115. BEM 150, p. 1.

In the present case, the Department presented evidence showing that Child A was active for SSI-MA coverage in February 2017. Specifically, the Department presented Child A's Medicaid Eligibility showing that Child A received full SSI-MA coverage for February 1, 2017 to February 28, 2017. Exhibit B, pp. 62-63. As such, the Department established by a preponderance of evidence that it properly provided Child A with full SSI-MA coverage she is eligible to receive from February 1, 2017 to February 28, 2017 in accordance with Department policy (under Case No. 115635664). BEM 150, p. 1. There is nothing further the undersigned can address in regards to Petitioner's claim that they had to pay [REDACTED] in out-of-pocket expense for the medication because the Department established that it properly provided Child A with coverage. Petitioner was informed to ask the Department for assistance to seek reimbursement for the services they paid for as coverage was active.

FAP application

In the present case, the Department denied Petitioner's FAP application effective January 5, 2017, due to excess income. In order to determine if Petitioner's income exceeded the income, the undersigned reviewed the January 2017 FAP budget provided by the Department. Exhibit A, pp. 15-16.

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. See BEM 556 (July 2013), p. 5. Moreover, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p. 1. It was not disputed that this case involves a SDV FAP group because Child A is disabled. RFT 250 indicates that the monthly net income (100%) limit for a group size of six is \$ [REDACTED] RFT 250 (October 2016), p. 1. Thus, it has to be determined if the FAP group's income exceeds the net income limit of \$ [REDACTED].

First, it was not disputed that the certified group size is six and that Child A was an SDV member.

Second, the Department calculated the FAP group's gross earned income to be \$ [REDACTED] which comprised of Petitioner and her spouse's income. Exhibit A, p. 15. As part of the evidence record, the Department presented Petitioner and her spouse's employment

verifications (The Work Number) showing the pay dates it used to determine their gross incomes. Exhibit A, pp. 6-13.

The calculation of Petitioner's gross income was based on the following four pay dates: (i) pay date of [REDACTED]; (ii) pay date of [REDACTED]; (iii) pay date of [REDACTED]; (iv) pay date of [REDACTED]. Exhibit A, p. 7. The Department then takes the average of the four pay checks and multiplies it by 4.3 to convert the weekly income to a standard monthly amount, resulting in a gross income of [REDACTED]. See BEM 505 (April 2016), p. 8.

The calculation of the spouse's gross income was based the following four pay dates: (i) pay date of [REDACTED], with a gross pay of [REDACTED] (ii) pay date of [REDACTED] with a gross pay of [REDACTED] (iii) pay date of [REDACTED] with a gross pay of [REDACTED] and (iv) pay date of [REDACTED], with a gross pay of [REDACTED]. Exhibit A, p. 10. The Department then takes the average of the four pay checks and multiplies it by 4.3 to convert the weekly income to a standard monthly amount, resulting in a gross income of [REDACTED]. See BEM 505, p. 8.

When the undersigned adds both amounts together, the resulting earned income calculation is [REDACTED]. Exhibit A, p. 15.

In response, Petitioner and her spouse disputed the calculation of the gross income. She testified the Department should have factored in her unemployment from her job for the periods of December 23, 2016 to January 9, 2017, and January 23, 2017 to February 7, 2017. She testified that she informed her caseworker that she was unemployed in January 2017. Petitioner testified that she is trying to figure out how why every time she is being denied by the Department. Petitioner testified that she did not dispute the amounts her and her spouse received. A review of Petitioner's application finds no indication that she informed the Department that she was unemployed. See Exhibit B, p. 27.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505, p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 8. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 8.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use

prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5.

Based on the foregoing information and evidence, the undersigned finds that the Department properly calculated Petitioner's and her spouse's earned income. Petitioner's main argument was that the Department should have factored in her unemployment periods from her occupation. However, a review of Petitioner's application finds no indication that she informed the Department that she was unemployed for her reported periods. See Exhibit B, p. 27. Nevertheless, Petitioner did not dispute the actual pay amounts the Department used in its method to calculate their gross earned incomes. As such, the undersigned finds the Department properly calculated Petitioner's and her spouse's gross earned income of [REDACTED] in accordance with Department policy. See BEM 505, pp. 1-8.

Then, the Department calculated Child A's gross unearned income to be [REDACTED] which comprised of her SSI income. The Department counts the gross amount of current SSA-issued SSI as unearned income. BEM 503 (January 2017), p. 1. Petitioner and her spouse argued that Child A's gross income was only [REDACTED] part of the evidence record, the Department presented Child A's State On-Line Query (SOLQ), which is a data exchange from SSA that reports point in time information on SSI. See BAM 801 (July 2015), p. 1. The SOLQ showed that for January 2017, Child A received [REDACTED] in SSI income, but it appeared [REDACTED] was being taken from Child A's check due to an overpayment. Exhibit B, pp. 58-59. The undersigned finds that there is conflicting information as to the calculation of Child A's gross unearned income. Technically, the burden is on the Department to show how it calculated the [REDACTED] gross unearned income and the evidence fails to show how it came to this amount. Nevertheless, this is harmless error by the Department because even if the undersigned agrees with Petitioner that Child A's income is [REDACTED], she would still be over the income limits. Petitioner is almost two thousand dollars over the net income limits. Thus, reducing Child A's gross unearned income from [REDACTED] would still result in a denial of benefits due to excess income. As such, the undersigned finds harmless error in the calculation of Child A's gross unearned income.

Then, the Department adds together the gross earned and unearned income, which is \$[REDACTED] Exhibit A, p. 15. However, policy also allows a gross countable earned income reduction by 20 percent. BEM 550, p. 1. In this case, the FAP group's gross countable earned income was [REDACTED]. Twenty percent of this amount is [REDACTED]. Exhibit A, p. 15. Thus, the Department will reduce the total income of [REDACTED] by the 20 percent earned income deduction ([REDACTED]), which results in Petitioner's post earned income deduction to be [REDACTED]. Exhibit A, p. 15.

Next, the Department applied the [REDACTED] standard deduction applicable to Petitioner's group size of six. RFT 255 (October 2016), p. 1. The Department also did not provide

Petitioner with any dependent care deductions. However, Petitioner testified that she pays approximately [REDACTED] dependent care expenses. For groups with one or more SDV member, the Department uses dependent care expense. BEM 554 (January 2017), p. 1. But a review of Petitioner's application shows that she never reported any dependent care expenses to the Department. Exhibit B, p. 32. Therefore, the Department properly did not include any dependent care deductions in the budget in accordance with Department policy. See BEM 554, p. 8 (The Department verifies dependent care expenses at application, reported change and redetermination).

The Department also provides deductions for medical expense that exceed [REDACTED] but only for SDV members. BEM 554, p. 1. Therefore, Child A would be the only individual who would qualify for a medical deduction. The Department did not budget any medical deductions for Child A. A review of the application shows that Petitioner did not report any medical bills for Child A. Exhibit B, p. 32. Moreover, the [REDACTED] medical expense that Petitioner/spouse paid for on behalf of Child A occurred subsequent to the application. Therefore, the Department properly did not include any medical deductions in the budget in accordance with Department policy. See BEM 554, p. 11.

Once the Department subtracts the [REDACTED] standard deduction from the post earned income deduction of [REDACTED] this results in an adjusted gross income of [REDACTED]. See Exhibit A, pp. 15-16.

Additionally, the Department can provide individuals with a shelter deduction, which includes any housing costs and utilities expenses (water, gas, electric, telephone) that Petitioner is responsible to pay for. See BEM 554, pp. 12-24. The Department presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is [REDACTED]. Exhibit B, p. 56. Petitioner disputed this amount claiming her rental obligation is [REDACTED]. A review of Petitioner's application found that she reported her rent was [REDACTED] in one portion of the application and [REDACTED] in another portion of the application. Exhibit B, pp. 3 and 31. Again, though, the calculation of the housing expenses is harmless error by the Department because even if the undersigned agrees with Petitioner that the housing expenses is [REDACTED], she is not eligible for an excess shelter deduction. Policy states that the total shelter obligation is calculated by adding Petitioner's housing expenses to the [REDACTED] mandatory heat and utility standard; this amount is found to be [REDACTED]. See Exhibit B, p. 56; BEM 554, pp. 14-16; and RFT 255, p. 1. 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]. See Exhibit B, p. 56. When the Department subtracts the total shelter amount from fifty percent of the gross income, she is ineligible for the excess shelter because the total shelter amount is greater than 50 percent of the adjusted gross income. Thus, even if the undersigned finds that Petitioner's housing expenses is \$[REDACTED], this would not change the outcome because the total shelter amount would still be greater than 50 percent of the adjusted gross income. As such, the undersigned finds harmless error in the calculation of the shelter expenses.

Finally, the Department subtracts the [REDACTED] adjusted gross income from the [REDACTED] excess shelter deduction, which results in a net income of [REDACTED]. Exhibit A, p. 16. RFT 250, Column B, Monthly Net Income (100%) Limit for a group size six is [REDACTED] RFT 250, p. 1. Petitioner's [REDACTED] net income exceeds the income limit of [REDACTED] for a group size of six. RFT 250, p. 1. Therefore, the Department properly denied Petitioner's FAP application effective January 5, 2017, due to her the net income exceeding the limits. BEM 556, p. 5 and RFT 250, p. 1.

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 (i) the Department acted in accordance with Department policy when it properly provided Child A with full SSI-MA coverage she is eligible to receive from February 1, 2017 to February 28, 2017; and (ii) the Department acted in accordance with Department policy when it properly denied Petitioner's FAP application effective January 5, 2017, due to excess income.

Accordingly, the Department's MA and 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]

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[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]