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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

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Date Mailed: April 21, 2017
MAHS Docket No.: 17-003457
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 ██████████ from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, specialist, and ██████████, supervisor.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

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 was an ongoing FAP and MA benefit recipient.
2. As of ██████████, Petitioner was neither pregnant, married, over 21 years of age, nor a caretaker to minor children.
3. Petitioner was the only member of her FAP benefit group.

4. Petitioner received gross employment income of [REDACTED] on [REDACTED], and [REDACTED] on [REDACTED].
5. Petitioner did not verify a housing obligation to MDHHS.
6. On an unspecified date, MDHHS determined Petitioner to be eligible to receive [REDACTED] month in FAP benefits, effective [REDACTED], in part based on gross monthly employment income of [REDACTED] and no housing obligation.
7. On an unspecified date, MDHHS determined Petitioner to be eligible for Medicaid subject to a monthly [REDACTED] deductible, effective [REDACTED].
8. On [REDACTED], Petitioner requested a hearing to dispute the FAP and MA determinations for [REDACTED].

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of FAP benefits from [REDACTED]. MDHHS presented various FAP-budget documents for [REDACTED] (Exhibit 1, pp. 7-9). The documents calculated Petitioner was entitled to a FAP issuance of [REDACTED].

BEM 556 details the required calculations and factors for determining FAP eligibility. The required calculations and factors will be evaluated with presented budgets and Petitioner's testimony.

MDHHS presented bi-weekly earnings statements for Petitioner (Exhibit 1, pp. 2-3). Listed gross pay dates and amounts were [REDACTED] on [REDACTED], and [REDACTED] on [REDACTED].

For FAP benefits, MDHHS converts bi-weekly stable income into a 30 day period by multiplying the income by 2.15 (see BEM 505 (April 2016), p. 4). Bridges counts gross [employment] wages... [other than exceptions such as earned income tax credit, census workers, flexible benefits...]. BEM 501 (July 2016), p. 7.

Petitioner's average bi-weekly pay was [REDACTED]. Multiplying Petitioner's average pay by 2.15 results in a gross countable income of [REDACTED] (dropping cents), the same as calculated by MDHHS.

MDHHS also factors a 20% credit for reported employment income. Petitioner's FAP benefit group's countable earned income is found to be [REDACTED].

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above [REDACTED] for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner's FAP-benefit group had no SDV members.

Verified countable medical expenses (for SDV groups only), child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care or child support expenses.

Petitioner's FAP benefit group size justifies a standard deduction of [REDACTED] (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be [REDACTED].

MDHHS budgeted Petitioner's rent to be [REDACTED]. Petitioner testified her housing obligation for [REDACTED] changed to [REDACTED].

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2016), p. 11. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

Petitioner testimony conceded she had not reported a change in rent to MDHHS before requesting a hearing. If Petitioner had not reported a change in rent, then MDHHS cannot be faulted for factoring the rental amount.

Petitioner testified she had a housing obligation before [REDACTED]. The testimony implied that if MDHHS did not factor Petitioner's [REDACTED] housing obligation, then MDHHS should have factored the amount of her obligation from [REDACTED].

MDHHS testimony indicated Petitioner failed to verify her obligation. Housing obligations must be verified (see BEM 554). MDHHS testimony further testified that a check of Petitioner's submissions indicated no evidence of a housing expense verification. Petitioner disputed the MDHHS testimony, but presented no documents to the contrary.

Based on presented evidence, it is found that MDHHS properly factored [REDACTED] for Petitioner's housing expense. Petitioner should expect MDHHS to factor a housing

obligation in future benefit issuances if she recently reported and verified her housing expense.

MDHHS credited Petitioner with a standard telephone credit of [REDACTED] (see RFT 255). Petitioner testimony conceded she had no other utility obligations. Adding Petitioner's housing and utility credits results in a total shelter obligation of [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be [REDACTED].

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance for [REDACTED] is found to be [REDACTED] the same amount calculated by MDHHS.

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of MA benefits from [REDACTED]. MDHHS presented a MA budget for [REDACTED] indicating Petitioner was eligible for Medicaid, subject to a [REDACTED] monthly deductible. The budget concerned Petitioner's MA eligibility through "G2U" (Group 2- Under 21 years of age).

As an employed individual who does not receive disability-related benefits, it is presumed that Petitioner is not disabled. As a FAP-benefit group size of 1, it is presumed that Petitioner does not have minor children. As a recipient of G2U benefits, it is presumed that Petitioner is under 21 years of age.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As a person aged under 21 years, Petitioner is potentially eligible for MA through Healthy Michigan Plan (HMP) or G2U. The analysis will begin with an evaluation of Petitioner's HMP eligibility.

The Healthy Michigan Plan is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGI).

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). *Id.*, p. 3.

The federal poverty limit for a 1-person group is [REDACTED]. Multiplying the applicable amount by 1.33 results in an income limit of [REDACTED] for a 1-person group.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. MAGIM (May 28, 2014), p. 15. It is based on federal tax rules for determining adjusted gross income. *Id.* For the purposes of... [calculating MAGI income... the income is] calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B)... 42 CFR 435.603 (e).

Petitioner's tax returns verifying adjusted gross income were not presented. In lieu of tax returns, adjusted gross income can be calculated based on presented documentation of Petitioner's income.

Adding Petitioner's presented bi-weekly pay amounts results in a monthly income of [REDACTED]. Multiplying Petitioner's monthly income by 12 months results in an annual income of [REDACTED].

HMP regulation allow for a 5% income disregard, though it "is not a flat disregard" (see MAGIM (May 28, 2014), p. 15). Even if Petitioner was given a 5% income disregard, her income would exceed HMP limits.

It is found Petitioner is not eligible for HMP. The analysis will proceed to consider Petitioner's eligibility for G2U.

Income eligibility [for G2U] exists when net income does not exceed the Group 2 needs in BEM 544. BEM 132 (January 2015), p. 2. [MDHHS is to] apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. *Id.* If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. *Id.* See BEM 545. *Id.*

For purposes of MAGI-related benefits, MDHHS gives a [REDACTED] credit for employment income. A deeper credit is merited when a client receives LIF or FIP benefits in the previous 4 months. As a non-caretaker of minor children, it is presumed that Petitioner was neither eligible for LIF nor FIP.

For purposes of MAGI-related benefits, Petitioner's 2 bi-weekly pays can be added to determine a monthly income. This amount is [REDACTED] (dropping cents). Applying a [REDACTED] credit results in a countable income of [REDACTED].

Petitioner's pro-rated income is calculated by dividing countable income by a pro-rated divisor. The pro-rated divisor is the sum of 2.9 and the number of dependents (Petitioner has 0). Petitioner's pro-rated income is [REDACTED] (dropping cents). Calculations for a spouse are not applicable. Petitioner's pro-rated income is multiplied by 2.9 to determine her share of her own income [REDACTED].


Deductions are given for insurance premiums, remedial services and ongoing medical expenses. No evidence of expenses was presented; thus, they are presumed to be [REDACTED].

The income limit for G2C eligibility for Petitioner's group size and shelter area is [REDACTED] (see RFT 240 (December 2013), p. 1). The amount that Petitioner's net income exceeds the income limit is the amount of deductible. Petitioner's deductible is calculated to be [REDACTED], the same amount as calculated by MDHHS. It is found MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for [REDACTED] in FAP benefits beginning [REDACTED]. It is further found that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a [REDACTED]/month deductible, effective [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]