



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: April 26, 2017
MAHS Docket No.: 17-003977
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED], her Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly determine the amount of the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly determine the amount of the 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. The Petitioner completed a redetermination in [REDACTED] [REDACTED]. The redetermination indicated that household income based upon Petitioner's spouse's Retirement, Survivors and Disability Insurance (RSDI) is \$ [REDACTED]. This income amount was confirmed by the parties as correct. [Exhibits A and B.]
2. The Petitioner's spouse [REDACTED] is disabled and receives RSDI and is eligible for MA subject to a deductible of \$ [REDACTED]. [Exhibits F and G.] The Petitioner

is also disabled and receives Healthy Michigan Plan as she is not eligible for RSDI as she has no work credits.

3. The Department issued a Health Care Coverage Determination Notice on [REDACTED], advising that the Petitioner's spouse was eligible for MA subject to a deductible of \$ [REDACTED] and that Petitioner was eligible for MA full coverage (HMP). [Exhibit F.]
4. On [REDACTED], the Department issued a Notice of Case Action approving the Petitioner for \$ [REDACTED] in FAP benefits. [Exhibit C.]
5. The Petitioner receives FAP benefits in the amount of \$ [REDACTED] monthly; the benefits were reduced after the Department discovered an error in a medical expense deduction of \$ [REDACTED] which was no longer appropriate. The Petitioner has an FAP group size of two and \$ [REDACTED] in income and housing costs of \$ [REDACTED] and receives a heat and utility (h/u) allowance of \$ [REDACTED] [Exhibit E.]
6. The Petitioner requested a timely hearing on March 13, 2017.

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.

Food Assistance

In this case, the Department recalculated the Petitioner's FAP after a redetermination. During the review, the Department determined that the Department was improperly including an old medical expense of \$ [REDACTED] monthly, which was incorrect. The Department's new budget was presented at the hearing, and information in the budget

for [REDACTED] regarding group income of \$ [REDACTED] group size (2), housing expense of \$ [REDACTED] a h/u allowance of \$ [REDACTED] were correct. Because no medical bills had been received for the [REDACTED] budget presented, which was prepared on [REDACTED], in anticipation of the hearing, a medical bill presented by Petitioner on [REDACTED], was not included. At the hearing, the Department agreed the medical expenses would be reviewed, and if eligible, would be applied to the [REDACTED] budget.

The Department included \$ [REDACTED] medical deduction in both the April and the [REDACTED] FAP budgets explaining that based upon the fact that both Petitioner and her spouse are disabled and each was entitled to a \$ [REDACTED] deduction. At the hearing, the Department testified that it included a medical expense for each group member because they are disabled individuals; and since both group members are disabled, the total is \$ [REDACTED] based upon the \$ [REDACTED] deduction found in BEM 556 (July 1, 2013), p. 4. After further review, it is determined that this is incorrect. The Department can only include **actual eligible medical expense that exceed \$ [REDACTED]** BEM 554 provides:

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

- For groups **with** one or more SDV member, Bridges uses the following; see Bridges Eligibility Manual (BEM) 550:
 - Dependent care expense.
 - Excess shelter.
 - Court ordered child support and arrearages paid to non-household members.
 - **Medical expenses for the SDV member(s) that exceed \$35.** BEM 554 January 1, 2017), p. 1

In this case, the Department erred when it included a \$ [REDACTED] medical expense as the Petitioner submitted no medical bills at the time the FAP budget was prepared. The medical bills, in order to be used as a medical expense, must exceed \$ [REDACTED] all amounts over \$ [REDACTED] are then included as the medical deduction. The Department is to consider **only** the medical expenses of the SDV persons in the eligible group and are to be based upon verified allowable medical expenses. BEM 554, p. 9. Thus, the Department's budget, as submitted, is incorrect and must be recalculated to exclude the \$ [REDACTED] medical expense.

Medical Deductible

The Department also determined that the Petitioner's spouse was subject to an \$ [REDACTED] MA deductible. The MA deductible budget was presented at the hearing and reviewed. [Exhibit G.]

Medical Assistance Deductible Calculation

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (October 1015), p. 2; BEM 544 (July 1, 2016), p. 1; BEM 545 (January 1, 2017), pp. 1-2; RFT 240 (December 1, 2013), p. 1.

Income eligibility for full coverage MA exist for the calendar monthly tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When one of the following equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit [IDH](#)), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

When **one** of the above does **not** equal or exceed the group's excess income for the month tested, income eligibility begins either:

- **The exact day of the month** the allowable expenses **exceed** the excess income.
- **The day after the day of the month** the allowable expenses **equal** the excess income. BEM 545, p.1.

The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11

A 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, p. 10. The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11.

The monthly PIL for an MA group of one (Petitioner) living in Ingham County is \$ [REDACTED] BEM 211 (November 2012), p. 5; RFT 200 (December 1, 2013), p. 2; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on gross income, is greater than \$ [REDACTED]

At the hearing, the Petitioner's MA deductible budget was also reviewed to determine if the deductible in the amount of \$ [REDACTED] was correct. The Department used the correct income and credited the Petitioner with a \$20 unearned income general exclusion, leaving countable income of \$ [REDACTED] ($\$ [REDACTED] - \$20 = \$ [REDACTED]$). In the budget presented, the Petitioner did not present any medical bills, which will also cause a reduction in the deductible spenddown amount but only when bills are presented to the Department. The last step to determine the deductible is to subtract the protected income level (PIL) for Ingham County, which is \$ [REDACTED] from the countable income of \$ [REDACTED]. This leaves a deductible of \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$) [Exhibit G.]

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 determined that the Petitioner's spouse was subject to an \$ [REDACTED] medical deductible.

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 did not act in accordance with Department policy when it included a \$70 medical deduction for medical expenses in the FAP budget.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the MA deductible amount and **REVERSED IN PART** with respect to the FAP benefit calculation.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate the Petitioner's FAP budget for [REDACTED] and [REDACTED] and remove the \$ [REDACTED] medical expense.
2. The Department shall issue an FAP supplement, if any is applicable in accordance with Department policy.
3. The Department shall provide the Petitioner written notice of its determination.

LMF/jaf



Lynn M. Ferris

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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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