



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 9, 2018
MAHS Docket No.: 17-014350
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; 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, an in-person hearing was held on January 2, 2017, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Specialist.

ISSUE

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly determine the Petitioner's Medical Assistance (MA) spenddown?

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 is an ongoing recipient of FAP and MA benefits.
2. The Petitioner became married in April 2017 at which time Petitioner's FAP benefits and MA was adjusted. The Petitioner's FAP group consists of two members, Petitioner and his wife.
3. The Petitioner receives Social Security benefits from Retirement, Survivors and Disability Insurance (RSDI) of \$ [REDACTED] and his wife also receives benefits in the amount of \$ [REDACTED]. The total group unearned income is \$ [REDACTED]. This amount was

confirmed as correct at the hearing and is the unearned income used to determine FAP benefits.

4. The Petitioner pays rent on \$■■■■ and receives a utility allowance of \$■■■■
5. The Department issued a Notice of Case Action on October 17, 2017, which determined the Petitioner's FAP benefits to be \$■■■■ monthly based upon a group size of two, Petitioner and his wife. (Exhibit B.)
6. The Petitioner and his wife are recipients of MA and have a monthly deductible of \$■■■■
7. The Department issued a Health Care Coverage Determination Notice on October 17, 2017, advising Petitioner that he and his wife were eligible for MA subject to a deductible of \$■■■■ a month. (Exhibit A.)
8. The Petitioner requested a timely hearing on October 25, 2017, protesting the Department's actions.

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.

In this case, the Department adjusted the Petitioner's FAP benefits. The adjustment was due in large part to the fact that Petitioner, who was previously single, was married; and his FAP group income increased due to his wife's income and the fact that his FAP group now consisted of two members, the Petitioner and his wife. The Petitioner's FAP budget was reviewed at the hearing and was determined to be correct. Food

Assistance Program group composition is established by who lives together. Spouses who are legally married and live together **must** be in the same FAP group. BEM 212 (January 2017), p. 1.

At the hearing, the Department presented the FAP EDG Net Income Results Budget for December 1, 2017, which was reviewed to determine if the Department properly concluded that Petitioner was eligible to receive \$█ in monthly FAP benefits.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1-4. The Department considers the gross amount of money earned or received from RSDI Social Security income due to disability. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of one member and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- 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.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income but did have unearned income; and there was no evidence presented that his FAP group had any dependent care, or paid child support. The Petitioner did not pay any medical expenses and did not pay a Part B premium, resulting in medical expenses of \$0. The Petitioner's spouse has recently had her Part B premium deducted from her Social Security, however, has been approved for the medical cost sharing program, and the Department indicated that she should receive reimbursement. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support and the medical expenses. Based on his confirmed two-person group size, the Department properly applied the \$█ standard deduction. RFT 255 (October 2017), p. 1.

When the standard deduction of \$█ is deducted from the gross unearned income of \$█ it is determined that the Department correctly determined the Adjusted Gross Income (AGI) to be \$█ ($\$█ - \$█ = \$█$) (Exhibit D.)

In calculating Petitioner's excess shelter deduction, the Department determines the eligible monthly shelter costs. The Department properly considered Petitioner's monthly rent of \$█ and utility allowance of \$█. See BEM 554, pp. 16-19. A review of the excess shelter deduction budget and Department policy shows that the Department

properly determined that Petitioner was eligible for an excess shelter deduction of \$ [REDACTED] BEM 556, pp. 4-5; RFT 255, p. 1.

The actual calculation of the shelter expenses were explained at the hearing, and both the rent and utility allowance made total housing expenses \$ [REDACTED] which are reduced by taking one half of the AGI of \$ [REDACTED] resulting in an excess shelter deduction of \$ [REDACTED]. This sum is then deducted from the AGI of \$ [REDACTED] resulting in net income of \$ [REDACTED] (Exhibit B.) BEM 556, pp. 4-5; RFT 255, p. 1.

A FAP group of two persons with monthly net income of \$ [REDACTED] is entitled to \$ [REDACTED] in monthly FAP benefits. The FAP budget calculation is, therefore, determined to be correct. RFT 260, (October 2016) p. 1.

The Petitioner also question why he had been placed on spenddown having been previously eligible for the Freedom to Work Program. At the time of the hearing and during August and September 2017, the Petitioner was not working based upon Self-Employment Income and Expense Statements he filed with the Department. (Exhibit C.) Department policy governing the Freedom to Work (FTW) Program which is an SSI-related Group 1 MA category. FTW is available to persons with disability age 16 through 64 who have earned income and meet all the eligibility factors:

1. The client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination.
2. The client must be employed. FTW coverage is retained when a participant is relocated due to employment.

Note: A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility. Use client statements to verify.

3. The MA eligibility factors in the following items must be met:

- BEM 220, Residence.
- BEM 221, Identity.
- BEM 223, Social Security Numbers.
- BEM 225, Citizenship/Alien Status.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits. BEM 174, (January 2017, p. 1 and 2.

In this case, the Petitioner was not employed in August or September 2017 based upon his Self-Employment Income and Expense Statements for this period, and thus, is not eligible for FTW.

The SSI-Related Medicaid Adult Income Budget Results used to determine the Petitioner's spenddown was reviewed at the hearing. (Exhibit E.)

In this case, the Department placed the Petitioner and his wife on an \$[REDACTED] monthly MA deductible based upon their income from RSDI. The Petitioner received RSDI in the amount of \$[REDACTED] and his wife receives RSDI of \$[REDACTED] (Exhibit E.) The Petitioner confirmed the income received as determined by the Department was correct. The total unearned income received by the group is \$[REDACTED] monthly. The Department imposed a MA deductible (spenddown) based upon the group income received and in accordance with Department policy.

The Petitioner sought review of the Department's determination of a MA spenddown of \$[REDACTED] effective November 1, 2017. (Exhibit A.)

The Department presented a MA spenddown budget at the hearing which was reviewed. (Exhibit E.)

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 Ad Care requires:

Net income cannot exceed one hundred percent of the federal poverty level. The net income limit can be determined by subtracting twenty dollars from the income limits listed in table one of RFT 242. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. BEM 163 (January 2017), p. 1.

RFT 242 (December 2013), p. 1 provides that the income limit for a group of two persons living in Oakland County, Shelter Area VI is \$[REDACTED]. The Petitioner's net income is \$[REDACTED] and thus, the MA group income exceeds the net income limit to be eligible for full coverage Ad Care. Thus, the Department was correct to terminate full coverage MA based upon excess income and impose a deductible.

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 ID), 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 two (Petitioners) living in Oakland County is \$█████ BEM 211 (November 2012), p. 5; RFT 200 (December 1, 2013), p. 2; RFT 240, (December 2013) 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 \$█████

At the hearing, the Petitioner's MA deductible budget was also reviewed to determine if the deductible in the amount of \$█████ was correct. The Department used the correct income of \$█████ and credited the Petitioners with a \$█████ unearned income general exclusion, leaving countable net income of \$█████ ($\$█████ - \$█████ = \$█████$). In the budget presented the Petitioner did not present any medical bills which will also result in 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 Oakland County which is \$█████ from the countable income of \$█████. This leaves a deductible of \$█████ ($\$█████ - \$█████ = \$█████$). RFT 240 (December 2013) p. 1; (Exhibit E.)

Thus, the Department's determination that Petitioner was subject to an \$■■■ monthly deductible was correct. The Petitioner is not eligible for Ad Care full coverage MA based upon excess income.

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 Petitioner and his wife were eligible for FAP of \$■■■ monthly 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 determined Petitioner and his wife were subject to an \$■■■ monthly deductible for his MA based upon the MA group income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LF/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

DHHS

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]

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