



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 11, 2018  
MAHS Docket No.: 17-014542  
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 hearing was held on January 2, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

1. Did the Department properly close the petitioner's Food Assistance Program (FAP) case?
2. Did the Department properly determine the Petitioner was subject to a Medical Assistance (MA) with a 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 was an ongoing FAP recipient and receives MA subject to a deductible (spenddown of \$ [REDACTED] monthly).
2. The Department issued a Notice of Case Action on October 26, 2017, closing the Petitioner's FAP benefits case due to the FAP group net income exceeding the net income limit. (Exhibit A.)

3. The Petitioner has housing costs of \$ [REDACTED] monthly and pays heat and utility (h/u) expense and thus, get a \$ [REDACTED] utility allowance added to his housing costs. The Petitioner's FAP group consists of four (4) members: himself, his spouse, his natural child and his wife's child.
4. The Petitioner receives \$ [REDACTED] in Retirement, Survivors and Disability Insurance (RSDI) from the Social Security Administration (SSA) and his daughter receives \$ [REDACTED] from SSA. The Petitioner's wife receives \$ [REDACTED] weekly in unemployment benefits. The Petitioner's spouse also receives child support in the amount of \$ [REDACTED] monthly. (Exhibits D and E.)
5. The Department issued a Health Care Coverage Determination Notice on October 26, 2017, effective January 1, 2018, placing the Petitioner on a monthly deductible of \$ [REDACTED] (Exhibit B.)
6. The Petitioner requested a hearing on November 2, 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.

#### **Food Assistance Calculation**

In this case, the Department closed the Petitioner's FAP case due to the FAP group income exceeding the net income limit for a FAP group of four (4) members.

The Food Assistance budget was reviewed at the hearing; and after review, it was determined that the Department correctly closed the Petitioner's FAP benefit case. The income for the group is based on unearned income from Social Security benefits due to Petitioner being disabled. The Petitioner and his daughter both receive SSA benefits, and the Department correctly determined the total benefits they receive to be \$ [REDACTED]. This amount was confirmed by the Petitioner at the hearing. In addition, the Petitioner's wife receives unemployment benefits of \$ [REDACTED] weekly ongoing. The total monthly income from unemployment benefits is \$ [REDACTED]. Because the unemployment benefits are paid weekly, the income is converted by multiplying the weekly amount by 4.3 so that the monthly income is annualized due to some months having more than four pay periods in a month. (\$ [REDACTED] X 4.3 = \$ [REDACTED]. In addition, the Petitioner's spouse receives child support of \$ [REDACTED] monthly. When the income from all sources is added together, the total monthly income is \$ [REDACTED]. The Department correctly determined that the total group income is \$ [REDACTED] and correctly deducted \$ [REDACTED] as a standard deduction for a household of four persons. (Exhibit F.) The Department determined monthly housing costs based upon \$900 in housing rent and a h/u allowance of \$ [REDACTED] for total housing costs of \$ [REDACTED].

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 no longer eligible to receive 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; and there was no evidence presented that he had any dependent care, or paid child support. The Petitioner did not present any medical expenses so none were included in the FAP budget and does not pay a Part B premium, resulting in medical expenses of \$0. 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 four-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 income of \$█ it is determined that the Department correctly determined the Adjusted Gross income to be \$█ (Exhibit F.)

In calculating Petitioner's excess shelter deduction, the Department determines the eligible monthly shelter costs. The Department properly considered Petitioner's monthly housing costs for rent of \$█ which was confirmed by Petitioner, and \$█ h/u allowance as the Petitioner pays for heat. 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 not eligible for an excess shelter deduction BEM 556, pp. 4-5; RFT 255, p. 1.

The actual calculation of the shelter expenses were explained at the hearing; and both the monthly rent of \$900 and the heat allowance of \$█ made total housing expenses \$█ which are reduced by deducting one half of the Adjusted Gross Income of \$█ resulting in an excess shelter deduction of \$0.

Based upon net income of \$█ the Net Income Limit for a group of four persons is \$█ and thus, the Petitioner's income having exceeded the net income limit is not eligible for Food Assistance. (Exhibit B.) BEM 556, pp. 4-5; RFT 255, p. 1, RFT 250 (October 2017), p. 1.

### Medical Deductible

The Department issued a Health Care Coverage Determination Notice on October 26, 2017, effective January 1, 2018, placing the Petitioner on a monthly deductible of \$█ (Exhibit B.) The Petitioner receives \$█ in RSDI from the Social Security Administration (SSA) and his daughter receives \$█ from SSA. The Petitioner's wife receives \$█ weekly in unemployment benefits. The Petitioner's spouse's child also receives child support in the amount of \$█ monthly. (Exhibits D and E.) The Petitioner, based upon his receipt of RSDI, previously qualified for Ad Care which is full coverage Medicaid. However, based upon the income received by the fiscal group by Petitioner and his wife which totals \$█ the Petitioner's income exceeds the \$█ income limit as established by RFT 242 (April 2017), p. 1.

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (October 2014), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL),

which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, Petitioner, who is married, has an MA fiscal group size of two. BEM 211 (January 2015), p. 8. Because he lives in Wayne County, his PIL is \$ [REDACTED] for a group of 2. RFT 200 (December 2013); RFT 240, p. 1. Thus, if his household's net income, calculated in accordance with BEM 536 (January 2014), pp. 1-7, exceeds \$ [REDACTED] Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his net monthly income exceeds \$500.

When calculating the spenddown, the Department correctly used the actual gross unearned income for both the Petitioner and his spouse when calculating the deductible. The Petitioner and his wife both receive unearned income. The actual gross income used was \$ [REDACTED] (RSDI) for the Petitioner and \$ [REDACTED] (unemployment benefits) for Petitioner's wife. These amount were confirmed at the hearing. (See also and Exhibit H.)

The Department presented a copy of the G2-FIP-related MA net income budget showing the calculation of Petitioner's monthly deductible (Exhibit G). The budget shows that Petitioner's prorated income is \$ [REDACTED] and Petitioner's spouse's prorated income is \$ [REDACTED] (Exhibit E.) An adult's prorated income is determined by dividing monthly budgetable income for that person, calculated in accordance with BEM 536 (January 2014), pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, (October 1, 2017) p. 4.

For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4. In Petitioner's case, the Petitioner has three dependents: his wife and the two children living in the household. BEM 536. The Petitioner's income is divided by the pro rate divisor of 5.9, determined by adding 2.9 plus three dependents which equals 5.9. The Petitioner's income is divided by 5.9 ( $\$ [REDACTED] \div 5.9 = \$ [REDACTED]$  and results in prorated income for Petitioner of \$ [REDACTED] which is correct. The same calculation is used to determine his wife's prorated income based upon his wife also having three dependents, the Petitioner and two children in the household. ( $\$ [REDACTED] \div 5.9 = \$ [REDACTED]$  The wife's prorated income is determined to be \$ [REDACTED] and is correct.

The next step requires that each adult's share of their own income must be determined so that Net income can be determined. This is done by multiplying the Petitioner's prorated income of \$ [REDACTED] by 2.9 which total \$ [REDACTED] ( $\$ [REDACTED] \times 2.9 = \$ [REDACTED]$  With respect to Petitioner's wife's share of her own income her prorated income of \$ [REDACTED] is multiplied by 3.9 which totals \$ [REDACTED] In addition, one prorated share of the adult (Petitioner) person requesting MA) prorated income of \$ [REDACTED] is also included. These amount are then added together and total \$ [REDACTED] in net income. ( $\$ [REDACTED] + \$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED]$

The last step requires any deductions if applicable be made. No deductions were made by the Department for medical insurance premiums based upon the information

presented to the Department by Petitioner at the time it determined that the deductible. At the hearing the Petitioner presented his auto insurance premium which included a \$■■■■ PIP Primary Medical premium for six months. Because there was no evidence this information was provided to the Department before the hearing, or at the time the deductible was determined, the question of whether the PIP premium for Primary Medical qualifies as a cost of medical insurance is not considered for purposes of this hearing. (Petitioner Exhibit 1.)

The protected income limit for a group of two adults for Wayne County is \$■■■■ which is deducted from the net income of \$■■■■ leaving a balance of \$■■■■ which is the deductible amount as determined by the Department. BEM 536 (October 2017) pp. 1-7. Because Petitioner's group's net income of \$■■■■ exceeds the applicable \$■■■■ PIL by \$■■■■ the Department acted in accordance with Department policy when it determined the Petitioner was eligible for MA coverage submit to a monthly deductible of \$■■■■


Based upon the foregoing analysis and the FIP related MA (adult) budget submitted, it is determined that the budget is correct and that the Department correctly determined the Petitioner's deductible amount.

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 closed the Petitioner's FAP benefits due to excess income and also correctly determined the Petitioner's medical assistance deductible.

### **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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[REDACTED]

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