



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 17, 2018
MAHS Docket No.: 17-015094
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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, a telephone hearing was held on December 20, 2017, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUES

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly exclude Petitioner's daughter from her Medicaid (MA) group?

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 recipient of FAP and MA benefits.
2. On November 7, 2017, the Department received a Decision and Order, Docket Number 17-012740, directing the Department to adjust unearned income from child support and to recalculate the FAP budget.

3. On November 9, 2017, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for \$█ in FAP benefits, for a group size of two, effective December 1, 2017-ongoing.
4. On November 9, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that her daughter was ineligible for MA benefits for October 2017 because she was eligible for MA on another case.
5. At the beginning of the hearing, Petitioner withdrew her request with respect to Child Development Care benefits, she testified that she checked the box regarding CDC in error.
6. On November 17, 2017, the Department received Petitioner's request for hearing disputing 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner requested a hearing to dispute the Department's actions with respect to her FAP and MA benefits. As ordered in a prior decision, issued November 7, 2017, MAHS Docket No.: 17-012740, the Department recalculated the child support received by Petitioner monthly and the FAP budget. Changes in the unearned income (child support) and shelter expenses resulted in a decrease in the monthly FAP benefits. Petitioner disputed the change. Additionally, Petitioner had requested that her daughter be added to her MA group because she was back in the home. The addition to the MA group was denied because the daughter was still eligible for benefits on another case for the month of October 2017. Petitioner disputed the Department's decision.

CDC

At the beginning of the hearing, Petitioner withdrew her request for a hearing for CDC benefits. Petitioner indicated she was not seeking a hearing regarding her CDC benefits because she was satisfied with the Department's actions concerning that program. The request for hearing with respect to CDC benefits is **dismissed**.

FAP

The Department presented a FAP Budget in the November 9, 2017, Notice of Case Action which was reviewed along with the Unearned Income Budget and the Excess Shelter Deduction calculations to determine if the Department properly calculated the amount of Petitioner's FAP benefits. [Exhibit A, pp. 4-6, 12, 20.]

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 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, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2017), pp. 6-7.

According to the budget provided, the Department concluded that Petitioner had earned income in the amount of \$ [REDACTED] which consisted of her weekly earnings from employment. Specifically, the Department stated that it relied on the paystubs provided and considered: \$ [REDACTED] paid on August 4, 2017; \$ [REDACTED] paid on August 11, 2017; \$ [REDACTED] paid on August 18, 2017; \$ [REDACTED] paid on September 1, 2017; and determined that the missing check stub for the pay date of August 25, 2017, was \$ [REDACTED] [Exhibit A, pp. 13-17.] Petitioner confirmed that the income amounts relied upon were correct, and the

paystubs were presented during the hearing. Upon review and in consideration of the prospective budgeting policy, the Department properly calculated Petitioner's earned income. Petitioner provided the Department with paycheck stubs that covered the time period of September 22, 2017, through October 20, 2017. Consideration of the newer paycheck stubs did not result in a difference in monthly benefits.

Petitioner receives unearned income monthly in the form of child support for one child. Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. BEM 503, pp. 6-10. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, pp. 3-5. The Department was able to determine that the monthly amount of child support paid to Petitioner for the month of November 2017 to be \$ [REDACTED]

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly calculated the earned income deduction of \$ [REDACTED] and applied a dependent care deduction of \$ [REDACTED]. Based on Petitioner's confirmed two person group size, the Department properly applied a \$ [REDACTED] standard deduction. In calculating the excess shelter deduction of \$ [REDACTED] the Department properly considered Petitioner's confirmed monthly rent of \$ [REDACTED] and the \$ [REDACTED] heat and utility standard. After all of the deductions were made Petitioner's net income was determined to be \$ [REDACTED]. The maximum FAP benefit amount for a group size of two, such as Petitioner's is \$ [REDACTED].

MA

In October 2017, Petitioner requested that her daughter be placed on her MA case. Petitioner's child was still considered to be out of the home, and she received MA benefits on another case. In November 2017, the child was placed on Petitioner's case. The child was never without MA coverage. **Benefit duplication** means assistance

received from the **same** (or same **type** of) program to cover a person's needs for the same month. BEM 222 (October 2016), p. 1. Prior to hearing Petitioner's concern regarding the placement of her daughter on her MA benefit case was resolved. In that there was no longer an issue for adjudication, the request for hearing with respect to MA benefits is **dismissed**.

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 calculated Petitioner's FAP benefits.

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 calculated Petitioner's FAP benefits.

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

It is further ORDERED, that since Petitioner indicated she did not wish to have a hearing regarding CDC benefits the hearing request with respect to the CDC program is hereby **DISMISSED**.

It is further ORDERED, that since the issue regarding MA benefits had been resolved prior to hearing the hearing request with respect to MA benefits is hereby **DISMISSED**.

DM/jaf



Denise McNulty

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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