



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 16, 2018
MAHS Docket No.: 18-000157
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 February 8, 2018, from Detroit, Michigan. The Petitioner was not present. Petitioner's husband, [REDACTED], appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner was eligible for Food Assistance Program (FAP) benefits in the amount of [REDACTED] per month effective February 1, 2018?

Did the Department properly determine that Petitioner and her husband were eligible for Medical Assistance (MA) benefits subject to a monthly deductible in the amount of [REDACTED] each effective February 1, 2018?

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 is an ongoing recipient of FAP and MA benefits.
2. Petitioner submitted a Semi-Annual Contact Report together with her husband's paystubs for November and December 2017.

3. On December 21, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she and her husband had been approved for MA benefits subject to monthly deductible in the amount of [REDACTED] each effective February 1, 2018.
4. On January 2, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that she was eligible for FAP benefits in the amount of [REDACTED] per month effective February 1, 2018.
5. On January 2, 2018, Petitioner filed a 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.

FAP

Petitioner's husband is employed. Petitioner submitted a Semi-Annual Contact Report together with the following paystubs representing her husband's earned income: November 22, 2017 in the amount of [REDACTED]; November 30, 2017 in the amount of [REDACTED]; December 7, 2017 in the amount of [REDACTED]; and December 14, 2017 in the amount of [REDACTED] for a total of [REDACTED]. When an individual receives earning earnings weekly, the income is multiplied by 4.3 and then divided by 4. BEM 554 (August 2017), p. 4. Thus, Petitioner's gross countable income is calculated at [REDACTED]. Gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1. When the earned income deduction of

██████████ is subtracted from Petitioner's gross countable income, her income is ██████████.

The Department presented a budget in support of its contention that Petitioner was entitled to ██████████ per month. However, in the budget, the Department budgeted Petitioner's earned income as ██████████. The Department was unable to articulate how it arrived at this earned income amount. Because the Department was unable to state how it arrived at the higher earned income amount, it is found that the Department failed to properly determine Petitioner's eligibility for FAP benefits.

7), p. 22.

MA

The Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she and her husband were approved for MA benefits subject to a monthly deductible of ██████████ each. G2C is a FIP-related Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (October 2017), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Petitioner is disputing the determination of eligibility for her MA benefits and not her daughter. Therefore, a budgetable income will be determined for Petitioner only and will not include her daughter's income. See BEM 536, p. 1.

Petitioner provided paystubs which indicated that her husband received ██████████ in earned income from November 22, 2017 through December 14, 2017. The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Petitioner's number of dependents is five. The Department then adds 2.9 to Petitioner's number of dependents (five), which results in a prorate divisor of 7.9. BEM 536, p. 4. The Department deducts ██████████ from the countable earnings. BEM 536, p. 1. When the ██████████ is deducted from the countable earnings, Petitioner's income is ██████████. The Department will then divide the person's total net income by the prorate divisor, which results in the adult's prorated share amount of ██████████ (██████████ net income divided by 7.9 prorate divisor). BEM 536, p. 4.

Then, an adult's fiscal group's net income is the total of the following amounts:

- The adult's net income ("Fiscal Group Member's Total Net Income") if the adult has no dependents or 2.9 prorated shares of the adult's own income if the adult has dependents (adult's "Step 13" times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "Step 13" times 3.9), plus
 - one prorated share of the adult's (person requesting MA) income (adult's amount from "**Step 13**").

Note: This is the couple's share of each other's income. BEM 536, pp. 6-7.

Applying the above policy, the Department calculated an adult's share of adult's own income of [REDACTED] ([REDACTED] times 2.9 plus [REDACTED]). See BEM 536, p. 6. Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 544, p. 1; RFT 240 (December 2013), p. 1; and RFT 200 (December 2013), pp. 1-2. Additionally, the PIL only includes the client and his/her spouse. In this case, the monthly PIL for an MA group of one (Petitioner only as she is not married) living in Wayne County is [REDACTED] per month. RFT 200, pp. 1-2; RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly net income exceeds the applicable PIL. BEM 135, p. 2 and BEM 545 (July 2013), p. 2. Petitioner's monthly total net income of [REDACTED] exceeds the [REDACTED] PIL by [REDACTED]. However, the Department determined that Petitioner's deductible amount was [REDACTED]. The Department was unable to explain its calculations.

It should be noted that the Department used [REDACTED] as the income in the FAP budget. The base income amount of this figure ([REDACTED] divided by 2.15 and then that amount divided by 2) is [REDACTED]. When this amount is used, Petitioner's deductible calculates at [REDACTED] as presented by the Department. However, as previously stated, the Department was unable to articulate how it arrived at an earned income amount of [REDACTED]. As such, it is found that the Department improperly calculated 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 did not act in accordance with Department policy when it determined that Petitioner was eligible for FAP benefits in the amount of [REDACTED] per month effective February 1, 2018. Further, 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 determined that Petitioner and her husband were eligible for MA benefits subject to a monthly deductible of [REDACTED] each effective February 1, 2018.

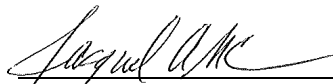
DECISION AND ORDER

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

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. Redetermine Petitioner's eligibility for FAP benefits effective February 1, 2018;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible to receive but did not effective February 1, 2018;
3. Redetermine Petitioner and her husband's eligibility for MA benefits effective February 1, 2018;
4. If Petitioner was eligible for supplements, issue MA supplements Petitioner was eligible to receive but did not effective February 1, 2018; and
5. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:



Petitioner – Via First-Class Mail:

