



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 13, 2018
MAHS Docket No.: 18-005981
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 July 11, 2018, from Lansing, Michigan. Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Hiba Murray, Eligibility Specialist.

Respondent's Exhibit A pages 1-27 were admitted as evidence.

ISSUE

Did the Department properly determine that Petitioner had excess income for purposes of Medical Assistance (MA) Program benefits and a deductible spend-down?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) amount?

Did the Department properly deny Petitioner's application for State Disability Assistance (SDA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 16, 2018, Petitioner submitted an application for MA, FAP, and SDA benefits.

2. The application was processed.
3. On June 4, 2018, the Department sent Petitioner a Notice of Case Action which denied Petitioner's request for SDA because Petitioner's countable income exceeds the limit for that program.
4. On June 4, 2018 the Department sent Petitioner a notice of case action which approved Petitioner for FAP benefits in the amount of \$15.00 per month.
5. On June 4, 2018, the Department notified Petitioner in a Healthcare Determination Notice that Petitioner was denied for MA benefits with a deductible spend down of \$902.00 per month.
6. On June 7, 2018, the Department received a request for hearing to contest the denial of the MA, and FAP benefits.
7. On June 12, 2018, the Department sent Petitioner notice of a Pre-Hearing Conference which was scheduled for June 15, 2018, at 9:30 AM.
8. Petitioner did not attend the Pre-Hearing Conference.
9. On June 20, 2018, the Michigan Administrative Hearing System received a Request for Hearing, Hearing Summary and attached documentation.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Michigan provides MA eligible clients under two general classifications: group 1 and group 2 MA. Claimant qualified under the group 2 MA classification which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. PEM 105. Once his SSI benefits were cancelled, claimant was no longer automatically eligible to receive Medical Assistance under the SSI category. In order to qualify for group 2 MA, a medically needy client must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimants in Adult Care Homes.

If Petitioner's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. This process is known as a spend-down. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

In the instant case, the Department calculated claimant's income based upon his receipt of earned income from employment. Petitioner is a recipient of group 2 caretaker relative MA with a semi-annual contact due.

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The Department follows the Program Reference Manual, Tables, Charts, Schedules, Table 240-1.

Petitioner's gross monthly income was determined to be \$1,297.00. He was given the \$20.00 unearned income general exclusion for net income of \$1,277.00. The protected income limit for a one-person household in Petitioner's circumstances is \$375.00; $\$1,277.00 - \$375.00 = \$902.00$, which left Petitioner with a deductible of \$902.00 per month in MA deductible spend down.

Deductible spend-down is a process which allows the customer's excess income to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. BEM, item 545, p. 1. Meeting the deductible spend-down means reporting and verifying allowable

medical expenses that equal or exceed the spend-down amount for the calendar month tested. BEM, item 545, p. 9. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, Item 130 explains verification and timeliness standards. BEM, Item 545, p. 9.

The Department's determination that claimant has deductible spend-down in the amount of \$902.00 per month is correct based upon the information contained in the file.

Petitioner's allegation of the spend-down is too expensive and unfair because of his other expenses is a compelling equitable argument to be excused for the Department's program policy requirements. This Administrative Law Judge has no equity powers. A review of Petitioner's case reveals that the Department budgeted the correct amount of income earned by Petitioner. Petitioner's protected income level and amounts are set by Medicaid policy and cannot be changed by the Department or this Administrative Law Judge.

Therefore, this Administrative Law Judge finds the Department has established by the necessary competent, material, and substantial evidence on the record that it acted in accordance with Department policy when it determined Petitioner has excess income for purposes of Medical Assistance benefit eligibility and when it determined that Petitioner has a \$902.00 monthly deductible spend-down that Petitioner must meet in order to qualify for MA for any medical expenses.

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.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Court-ordered or voluntary child support payments are considered a part of gross income. BEM 500, pages 4-5

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income. BEM 503, page 31.

In the instant case, Petitioner currently receives \$1297.00 per month in RSDI unearned income. He received a standard deduction of \$160.00 for an adjusted gross income of \$1,137.00. Petitioner receives housing expenses of \$425.00 plus the heat and utility standard of \$537.00 for a total shelter amount of \$962.00; \$1,137.00 minus \$568.00 (50% of adjusted gross income) equals \$394.00 in adjusted excess shelter amount. \$1,137.00 adjusted gross income minus \$394.00 excess shelter allowance leaves Petitioner with \$743.00 in monthly net income. The maximum a person may receive in FAP is \$192.00. FAP policy calculation requires the Department to count 30% of net income which equals \$223.00; \$192.00 minus \$223.00 equals less than \$0.00. A person with a group size of one person with net income of \$223.00 is entitled to receive \$0.00 in FAP benefits.

Traditional categorically eligible groups automatically meet the asset and income limits for the Food Assistance Program (FAP). Applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS). If their gross income is at or below 200 percent of the federal poverty level and they meet the asset test, they are also categorically eligible. Categorical eligibility applies to groups, not individuals. Bridges determines group composition prior to determining categorical eligibility. Determination of categorical eligibility will be made at application, reported change and redetermination.

Senior/Disabled/Disabled Veteran (SDV)

Households which contain an SDV member and whose gross income is above 200 percent are not categorically eligible but they may still be eligible for benefits if their net income is below 100 percent of the poverty level and they meet the asset limit; see BEM 400 and BEM 550.

Because Petitioner receives RSDI income, he is categorically eligible to receive \$15.00 per month in FAP benefits based upon his income level.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on his disability or blindness meets the disability or blindness criteria. Disability or blindness starts from the RSDI disability onset date established by the Social Security Administration (SSA). This includes a person whose entire RSDI benefit is being withheld for recoupment. No other evidence is required. BEM 260, page 1

The SDA monthly assistance payment standards table indicates that for all applications after October 1, 2011, an individual with monthly income above \$200.00 will have excess income for purposes of SDA benefit eligibility. The Department properly determined that Petitioner is ineligible to receive SDA benefits because he has monthly RSDI income in excess of \$200.00. RFT 225.

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 has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it determined that Petitioner should receive \$15.00 in monthly FAP benefit allotment. The Department properly denied Petitioner's application for SDA based upon excess income. The Department properly denied Petitioner's application for MA based upon excess income and properly determined that Petitioner has a \$902.00 deductible spend down.

DECISION AND ORDER

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

LL/bb



Landis Lain

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) 763-0155; 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

Latasha McKinney-Newell
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

M. Best via electronic mail

EQADHS via electronic mail

Petitioner

[REDACTED]
MI