



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: August 15, 2018  
MAHS Docket No.: 18-005632  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 August 9, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Richkelle Curney, hearing facilitator.

**ISSUES**

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

**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 FAP and MA recipient.
2. At all relevant times, Petitioner was a disabled individual receiving \$████████/month in Retirement, Survivors and Disability Insurance (RSDI). Petitioner was also non-pregnant, unmarried, and the only member of her FAP and MA group.
3. On April 5, 2018, MDHHS received Petitioner's Redetermination for MA benefits (Exhibit A, pp. 4-10).

4. On April 5, 2018, MDHHS determined Petitioner was eligible for \$█ in FAP benefits for April 2018 and a \$█ Medicaid deductible beginning May 2018 (see Exhibit A, pp. 11-18). Petitioner's eligibility incorrectly factored non-existent monthly medical expenses of \$█ (see Exhibit A, p. 12).
5. On May 15, 2018, MDHHS received Petitioner's Redetermination for FAP benefits. Petitioner reported no medical expense amounts. (Exhibit A, pp. 24-31)
6. On May 21, 2018, MDHHS determined Petitioner was eligible to receive \$█ in FAP benefits, effective July 2018, based on \$0 medical expenses. (Exhibit A, pp. 36-39)
7. On May 21, 2018, MDHHS determined Petitioner was eligible to receive Medicaid subject to a \$█/month deductible. (Exhibit A, pp. 40-43)
8. On May 29, 2018, MDHHS received Petitioner's hearing request disputing FAP and MA eligibility.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of FAP benefits for July 2018. MDHHS presented a Notice of Case Action (Exhibit A, pp. 36-39) which informed Petitioner she was eligible to receive \$█ beginning July 2018.

Petitioner was understandably perplexed that her FAP benefits would be reduced from \$█ to \$█ without any notable changes in her life. MDHHS testimony explained that Petitioner's previous FAP eligibility incorrectly factored non-existent medical expenses. Once the medical expenses were removed from Petitioner's budget, Petitioner's FAP eligibility substantially reduced. MDHHS' testimony was credible, but it cannot be determined whether Petitioner's FAP benefits were properly calculated without consideration of a full budget. BEM 556 dictates the calculations of the FAP budget. During the hearing, all relevant FAP factors were discussed with Petitioner.

Petitioner received \$█/month in unearned income. This was the only income factored by MDHHS in Petitioner's FAP eligibility.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old),

disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner was a disabled individual.

Verified countable medical expenses for SDV groups exceeding \$35, child support, and day care expenses are subtracted from a client's monthly countable income. MDHHS gave Petitioner no budgets credits for child care, child support, or medical expenses. Petitioner did not allege any countable day care or child support expenses. As of the benefit month in dispute, Petitioner had not reported to MDHHS any out-of-pocket medical expenses. Petitioner's running countable income remains \$ [REDACTED]

Petitioner's FAP benefit group size justifies a standard deduction of \$160 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is \$ [REDACTED]

Petitioner's monthly housing obligation was \$ [REDACTED] MDHHS credited Petitioner with a heating/utility standard of \$ [REDACTED]/month. The utility standard incorporates all utilities and is the maximum credit available (see BEM 255) Petitioner's total shelter expenses (housing + utilities) are \$ [REDACTED]

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$ [REDACTED]

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$ [REDACTED] A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$ [REDACTED] MDHHS determined the same eligibility for Petitioner; thus, it is found that MDHHS properly determined Petitioner's FAP eligibility beginning July 2018.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a determination of Medicaid from July 2018. MDHHS presented a Health Care Coverage Determination Notice (Exhibit A, pp. 40-43) informing Petitioner that she was eligible to receive Medicaid subject to a \$ [REDACTED] monthly deductible.

Medicaid is also known as Medical Assistance (MA). The Medicaid program comprise several sub-programs or categories. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (April 2017), p. 1.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*, p. 2.

As of the hearing date, Petitioner was a disabled individual receiving Medicare coverage. As a disabled individual, Petitioner is potentially eligible for Medicaid through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

The same income analysis used to determine Petitioner's FAP eligibility applies to Petitioner's MA eligibility. Petitioner's income for purposes of MA benefits is \$ [REDACTED]

MDHHS gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). None of the expenses were applicable. For purposes of AD-Care eligibility, Petitioner's countable income is \$ [REDACTED]

Net income cannot exceed 100% of the federal poverty level. *Id.*, p. 2. The income limit for a one-person AD-Care group is \$1,031.67. RFT 242 (April 2017), p. 1. Petitioner's countable income exceeds the AD-Care income limit, and therefore, Petitioner is not eligible for Medicaid through AD-Care.

Petitioner may still receive Medicaid subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (April 2018), p. 11.

The G2S budget allows a \$20 disregard for unearned income and various earned income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. There was no evidence of relevant expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the MA net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375 (see RFT 240 (December 2013), p. 1).

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$ [REDACTED] the same determination calculated by MDHHS. Thus, it is found that MDHHS properly determined Petitioner's Medicaid eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility from June 2018 and MA eligibility from July 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



**Christian Gardocki**

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**

Tara Roland 82-17  
MDHHS-Wayne-17-Hearings

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

BCS4  
M Holden  
D Sweeney  
D Smith  
EQAD  
C Gardocki  
MAHS