



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: July 25, 2018  
MAHS Docket No.: 18-006071  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Vicki Armstrong**

**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 18, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Family Independence Manager Deanna DeSantiago and Eligibility Specialist Jessica Blaskowski. Ms. DeSantiago and Ms. Blaskowski testified on behalf of the Department. Scott Matwiejczk, Regulation Agent for the Office of Inspector General, also appeared and testified. The Department submitted 82 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Did the Department properly determine that Petitioner's Medicaid was eligible for a deductible?

Did the Department properly average Petitioner's receipt of child support so that in months when she received no child support, she was budgeted for Food Assistance Program (FAP) benefits as though she were receiving some child support?

### **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 August 3, 2017, the Department mailed Petitioner a Notice of Case Action informing her that her Medicaid was changing to a deductible effective September 1, 2017. [Testimony of Jessica Blaskowski, 7/18/2018].
2. On May 14, 2018, Petitioner emailed the Department changes in her group composition and income. [Dept. Exh. 6].
3. On May 29, 2018, Petitioner submitted her Semi-Annual Contact Report, adding [REDACTED] to the list of household members. [Dept. Exh. 34-35].
4. On May 31, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits were increasing to \$320.00 a month from June 1, 2018, through March 31, 2019. [Dept. Exh. 20-24].
5. On June 2, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits were decreasing effective July 1, 2018, through March 31, 2019, based on a change in Petitioner's net income. [Dept. Exh. 29-33].
6. On June 8, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits were decreasing to \$223.00 a month beginning July 1, 2018, through March 31, 2019. [Dept. Exh. 36-40].
7. On June 12, 2018, the Department mailed Petitioner a Notice of Case Action indicating her FAP benefits were increasing to \$377.00 a month from July 1, 2018, through March 31, 2019. [Dept. Exh. 61-65].
8. On June 12, 2018, Regulation Agent Matwiejczyk made a home visit to Petitioner's residence. The child who answered the door said that [REDACTED] did not live there. [Dept. Exh. 70-71].
9. On June 14, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits were decreasing to \$233.00 a month beginning July 1, 2018, through March 31, 2019. [Dept. Exh. 72-76].
10. On June 22, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits were increasing to \$377.00 a month beginning July 1, 2018, through March 31, 2019. [Dept. Exh. 78-82].
11. On June 11, 2018, Petitioner submitted a Request for Hearing contesting the Department's budgeting of child support she no longer receives. [Dept. Exh. 5].

12. On July 18, 2018, during the hearing in the above captioned matter, Eligibility Specialist Blaskowski credibly testified that Petitioner had told her during a school meeting that [REDACTED] was no longer in the home. Mr. Matwiejczyk also testified as to his visit to Petitioner's home on June 12, 2018. [Testimony of Jessica Blaskowski, 7/18/2018; Testimony of Scott Matwiejczk, 7/18/2018].
13. Petitioner testified during the hearing that [REDACTED] was living with her. [Testimony of [REDACTED], 7/18/2018].

### **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 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 regulations regarding the hearing and appeal process for applicants and recipients of public assistance are in the Michigan Administrative Code, Rule 400.904. Any hearing request which protests a denial, reduction or termination of benefits must be filed within 90 days of the mailing of the negative action notice. R 400.904(4).

The first issue regarding this hearing is the timeliness of Petitioner's verbal Medicaid hearing request. On August 3, 2017, the Department mailed Petitioner a Notice of Case Action informing her that her Medicaid was changing to a deductible effective September 1, 2017.

On July 18, 2018, during the hearing in the above-captioned matter, Petitioner requested a hearing contesting her deductible on her Medicaid case. Because Petitioner submitted her request for a hearing well past the 90-day due date it is not necessary for the Administrative Law Judge to decide the matter that was in dispute. Therefore, Pursuant to Mich Admin R 400.904(4), Petitioner's Medicaid hearing request is HEREBY DISMISSED, because Petitioner's hearing request was not submitted timely.

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.

In this case, Petitioner gave conflicting evidence to the Department that her son, [REDACTED] was living in her household, but told the school that [REDACTED] was not. The Department forwarded an investigation request to the Office of the Inspector General (OIG). The OIG completed an investigation, finding [REDACTED] was not living in Petitioner's home. Despite Petitioner's testimony to the contrary, this Administrative Law Judge finds [REDACTED] does not live in Petitioner's home, based on the credible testimony of Eligibility Specialist Blaskowski and Regulation Agent Matwiejczk who independently investigated where [REDACTED] was living and independently testified as to their findings.

The only remaining issue at the end of the hearing was whether the Department was properly averaging Petitioner's receipt of Child Support income. Petitioner contends that she has not received Child Support from a father of one of her children since April 2018, and believes it is unfair for the Department to budget her average receipt of child support income for months when she receives no child support.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). Income, Unearned, BEM 503, p 6 (7/1/2017). Medical, dental, child care and educational expenses may also be included. *Id.* Court-ordered child support may be either certified or direct. *Id.* Direct Support is paid to the client. *Id.* Child support is income to the child for whom the support is paid. *Id.*

The Department enters child support payments received by the custodial party for an adult child or a child no longer living in the home, as the other unearned income of the payee as long as the money is not forwarded to the adult/child. *Id.* at 7. If forwarded to the adult/child, the Department enters as the other unearned income of the adult/child. *Id.*

Court-ordered direct support means child support payments an individual receives directly from the absent parent or the MiSDU. *Id.* at 9. Bridges counts the total amount as unearned income, except as any portion that is court-ordered or legally obligated directly to a creditor or service provider. *Id.* Voluntary and direct child support are countable in the eligibility determination. At application Bridges excludes up to \$50 received from either in the benefit month. *Id.*

A group's benefits for a month are based, in part, on a prospective income determination. Prospective Budgeting/Income Change Processing, BEM 505, p 1. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505, p 1. The Department gets input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. *Id.*

The Department uses the average of child support payments received in the past three calendar months, unless changes are expected. *Id.* at 4. The Department includes the current month if all payments expected for the month have been received. *Id.* The three-month period used can begin up to three months before the interview date or the date the information was requested. *Id.* If payments for the past three months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. *Id.*

If the irregular pattern is expected to continue, then use the average of these three months. *Id.* If there are known changes that will affect the amount of the payments for the future, then do not use the past three months to project. *Id.* Document the discussion with the client and how you decided on the amount to budget. *Id.*

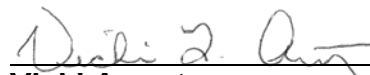
In this case, Petitioner has informed the Department that she believes the non-paying father of one of her children is now unemployed. Evidence for May, June and July 2018, thus far, support Petitioner's statement. Therefore, it is expected that the Department will act on this new information, document it, and decide on the amount to budget.

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 increased and decreased Petitioner's FAP benefits as her income changed and household membership changed. Furthermore, the Department correctly applied policy in using prospective income to average the amount of child support used when determining Petitioner's FAP eligibility.

### **DECISION AND ORDER**

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

VLA/hb



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**Vicki Armstrong**

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**

Fiona Wicks  
12185 James St Suite 200  
Holland, MI 49424

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**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]