



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 7, 2018
MAHS Docket No.: 18-006490
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 1, 2018, from Detroit, Michigan. Petitioner appeared and was represented by ██████████, Petitioner's sister (hereinafter "AHR" for authorized hearing representative). The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator. ██████████ ██████████, Petitioner's brother appeared as an observer.

ISSUES

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

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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 Medicaid and FAP recipient.
2. At all relevant times, Petitioner was unmarried, disabled, and without a minor child in her household.

3. As of May 2018, Petitioner received Retirement, Survivors and Disability Insurance (RSDI) benefits of \$[REDACTED]/month under one claim number. Under a separate claim number, Petitioner received \$[REDACTED] in RSDI benefits. (Exhibit A, pp. 4-5)
4. Petitioner received child support income of \$[REDACTED] in January 2018, March 2018, and May 2018.
5. On an unspecified date, MDHHS determined Petitioner was eligible for Medicaid, subject to a deductible.
6. On an unspecified date, MDHHS determined Petitioner's FAP eligibility, effective June 2018, based on \$[REDACTED] in unearned income and \$0 medical expenses. (Exhibit A, pp. 6-7)
7. On June 22, 2018, Petitioner requested a hearing to dispute 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's hearing request noted a need for an advocate and or representative in order to participate in the hearing. Petitioner testified that she did not need special accommodation because her sister participated in the hearing; the hearing was conducted accordingly.

Petitioner requested a hearing, in part, to dispute FAP eligibility. Petitioner testified that she specifically disputed a determination of \$[REDACTED] in FAP eligibility from June 2018.

BEM 556 outlines the factors and calculations required to determine FAP eligibility. During the hearing, all relevant budget factors were discussed with Petitioner.

Bridges counts gross RSDI as unearned income. BEM 503 (July 2017), p. 31. Gross amount means the amount of RSDI before any deduction, such as Medicare. BEM 163 (July 2017), p. 2. BEM 500 lists some exceptions to counting gross RSDI in determining program eligibility (e.g. returned benefits and reduced benefits due to overpayment).

As of June 2018, Petitioner reported and verified RSDI totaling \$[REDACTED]/month. Petitioner also received child support of \$[REDACTED] every other month for the first five months of 2018.

BEM 505 dictates that child support income is to be budgeted based on an average of three months. Petitioner did not dispute MDHHS' averaging of \$[REDACTED] in monthly child support. Adding Petitioner's RSDI and child support (not counting cents) results in a total unearned income of \$[REDACTED]

Petitioner testified that her RSDI benefit of \$[REDACTED] was recently reduced due to overpayment. Petitioner's testimony will not be factored because neither the reduction nor the reporting of the reduction occurred during the benefit month in dispute. Petitioner's RSDI reduction may impact future benefit eligibility; thus, Petitioner would be wise to follow up with MDHHS concerning processing her reported change in RSDI.

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. Given the evidence, 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 found to be \$878.

Petitioner testified her monthly housing cost was \$[REDACTED] and her only utility obligation was for a telephone. RFT 255 provides for a standard telephone credit of \$33. Adding Petitioner's housing and utility credits results in total shelter expenses of \$[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 found to be \$0.

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 \$878. 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 June 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 requested a hearing to dispute a change in MA from Medicaid to a deductible. The evidence indicated that the change became effective May 2018.

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. Thus, 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 amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's Medicaid eligibility.

As noted above, Petitioner is encouraged to follow up with MDHHS for reconsideration of future MA eligibility based on a recently reported income reduction. Petitioner should also be aware that the small amount of child support she receives may be the difference between being eligible for full Medicaid and being eligible for a large deductible.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$[REDACTED]/month deductible and eligible for \$[REDACTED] in FAP benefits. 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

Latasha McKinney-Newell
MDHHS-Wayne-19-Hearings

Authorized Hearing Rep

[REDACTED]
[REDACTED]
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Petitioner

[REDACTED]
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BSC4
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