



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 10, 2018
MAHS Docket No.: 18-007923
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 3-way telephone hearing was held on September 6, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Liza Nikaj, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility beginning April 2018.

The second issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility beginning April 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 was an ongoing MA benefit recipient.
2. At all relevant times, Petitioner was a disabled and unmarried individual and the only member of his benefit group.
3. On July 10, 2018, Petitioner applied for FAP benefits.
4. As of July 2018, Petitioner received veteran benefits of \$[REDACTED]/month. (Exhibit A, p. 8.)

5. As of July 2018, Petitioner was responsible for paying \$[REDACTED]/month in housing expenses.
6. On July 20, 2018, MDHHS determined Petitioner to be eligible for \$[REDACTED] in FAP benefits for July 2018 and \$[REDACTED]/month beginning August 2018 based on unearned income of \$[REDACTED] and housing expenses of \$[REDACTED] (Exhibit A, pp. 9-15)
7. On July 27, 2018, MDHHS determined Petitioner to be eligible for Medicaid subject to a \$[REDACTED]/month deductible beginning July 2018. (Exhibit A, pp. 3-6)
8. On August 2, 2018, Petitioner requested a hearing to dispute FAP and MA eligibility from July 2018. (Exhibit A, p. 2)

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. A Notice of Case Action (Exhibit A, pp. 9-12) dated July 20, 2018, stated that MDHHS determined Petitioner was eligible for FAP benefits of \$[REDACTED] for the period of July 10, 2018, through July 31, 2018, and \$[REDACTED]/month thereafter. Petitioner's FAP eligibility for July 2018 is presumed to be a pro-ratio of a full month of eligibility based on Petitioner applying for FAP benefits on July 2018.¹

BEM 556 outlines the factors and calculations required to determine FAP eligibility. MDHHS presented a FAP budget for August 2018 (Exhibit A, pp. 14-15) and budget summary for July 2018 and August 2018 (Exhibit A, p. 10) listing all relevant budget factors. During the hearing, all relevant budget factors were discussed with Petitioner and his AHR.

MDHHS factored unearned income for Petitioner in the amount of \$[REDACTED]. The income amount was verified by an award letter (Exhibit A, p. 8) and not disputed by Petitioner.

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-

¹ For FAP groups that are not at fault for a delay in processing, MDHHS begins benefit periods from the application date and pro-rates the benefits accordingly. BAM 115 (January 2018) p. 5.

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. Petitioner did not allege any such expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$[REDACTED] (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 are \$[REDACTED]

MDHHS factored Petitioner's monthly housing costs as \$[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] for a full month of FAP benefits - the same amount awarded by MDHHS. Based on Petitioner's pro-rated eligibility for July 2018, Petitioner is entitled to a pro-rated amount of \$[REDACTED] - the same amount awarded by MDHHS. 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 MA beginning July 2018. MDHHS presented a Health Care Coverage Determination Notice (Exhibit A, pp.

3-6) dated July 27, 2018. The notice informed Petitioner that he was eligible to receive Medicaid subject to a \$[REDACTED]/month deductible beginning July 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 disabled, 19-64 years of age, not pregnant, and not a caretaker to minor children. Thus, Petitioner appears ineligible for all MAGI-related categories. As a disabled individual, Petitioner is potentially eligible for Medicaid through AD-Care. BEM 163 outlines the procedures for determining AD-Care eligibility.

In determining Petitioner's AD-Care eligibility, MDHHS factored Petitioner's veteran benefit of \$[REDACTED]/month. No other income was applicable.

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]

AD-care income limits are 100% of the Federal Poverty Level + \$20. RFT 242 (April 2018) p. 1. The income limit for a one-person AD-Care group is \$1,031.67. *Id.* 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 \$408 (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.

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, effective July 2018, for Medicaid subject to a \$[REDACTED]/month deductible. It is also found that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits for July 2018 and \$[REDACTED]/month thereafter. 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

Vivian Worden
MDHHS-Macomb-36-Hearings

Petitioner

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

BSC4
M Holden
D Sweeney
D Smith
EQAD
C Gardocki
MAHS