



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: November 16, 2018
MAHS Docket No.: 18-008109
Agency No.: ██████████
Petitioner: ██████████

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 November 14, 2018, from Lansing, Michigan. Petitioner was represented by Petitioner ██████████. The Department of Health and Human Services (Department or Respondent) was represented by Jennifer Cole, Lead Eligibility Specialist.

Petitioner's Exhibit a and Respondent's Exhibits 1-20 were admitted as evidence.

ISSUE

1. Did the Department properly determine that Petitioner was eligible for Medical Assistance (MA) with a deductible spend-down?
2. Did the Department properly determine the amount of Petitioner's Food Assistance Program (FAP) allotment?

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 ██████████, ██████████ Petitioner submitted an online application for the food assistance program and medical assistance program benefits.

2. On [REDACTED], 2018, a DHS 3503, verification checklist, was mailed to Petitioner, requesting verification of property taxes, due by June 22, 2018.
3. On [REDACTED], 2018, Petitioner reported that she lives alone, is this enabled, receives [REDACTED] monthly RSDI, as a checking account, pays property taxes and utilities.
4. On [REDACTED], 2018, a DHS 1606, Health Care coverage determination notice was sent to Petitioner notifying her she is eligible for medical assistance with a \$503 monthly deductible.
5. On [REDACTED], 2018, Petitioner returned a verification of property tax payments and her bank account information.
6. On [REDACTED], 2018, a DHS-1605, Notice of Case Action, was mailed to Petitioner, indicating that effective [REDACTED], 2018, to [REDACTED], 2018, she was eligible for \$[REDACTED] in Food Assistance Program benefits, and effective [REDACTED], 2018, ongoing, she was eligible for \$[REDACTED] in monthly Food Assistance Program benefits.
7. On [REDACTED], 2018, Petitioner requested a hearing to dispute the medical assistance deductible and her food assistance benefit amount.
8. On [REDACTED], 2018, the Michigan Administrative Hearing System received the hearing summary and attached documents from the Department.
9. Petitioner alleges that she has medical expenses. Upon provision of the medical expenses to the Department, the Department will recalculate the Food Assistance Program benefit budget.

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 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 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.

Pertinent FAP policy indicates:

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. BEM 500, pages 4-5.

In the instant case, the Department determined that Petitioner receives [REDACTED] in RSDI countable unearned income per month.

Petitioner was given a \$[REDACTED] standard deduction and a \$[REDACTED] medical deduction, which left her with an adjusted gross income of [REDACTED].

Petitioner has a housing expense of \$[REDACTED] and was given a heat and utility standard of \$[REDACTED] for total shelter amount of \$[REDACTED]

\$[REDACTED] in total shelter amount – [REDACTED] (50% of adjusted gross income) = [REDACTED] in adjusted excess shelter amount.

[REDACTED] in adjusted gross income - \$[REDACTED] in excess shelter deduction = net income of [REDACTED] per month.

30% of net income equals [REDACTED].

The maximum benefit amount for a group size of one is \$[REDACTED] per month in food assistance program benefits.

[REDACTED] = \$[REDACTED] in monthly allotted food assistance program benefit amount.

Petitioner's allegation that the FAP calculation is improper because of other expenses is a compelling equitable argument to be excused from the Department's program policy requirements.

Equity powers are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Health and Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with verification of medical expenses, the Department can reassess Petitioner's eligibility for increased Food Assistance Program benefits.

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 the claimant'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 three 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.

The Department calculated claimant's income based upon her 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 is in compliance with the program reference manual, tables, charts, schedules, table 240-1.

In the instant case, the Department determined that Petitioner receives [REDACTED] in (RSDI) unearned income per month. Petitioner was given a \$[REDACTED] unearned income disregard for a total of [REDACTED] per month. Petitioner was given a \$[REDACTED] insurance medical premium deduction for a countable income of [REDACTED] per month. Petitioner was then given a protected income limit for a one-person FAP group size in Petitioner circumstances of [REDACTED]. [REDACTED] - [REDACTED] = \$[REDACTED] in spend-down deduction.

Petitioner argues that she is not being given the most beneficial category of Medical Assistance. She would like full medical assistance without a spend-down. Per BEM 105, persons may qualify for more than one category of Medical Assistance. The Department Representative testified that the Medical Assistance with the spend-down deductible is the most beneficial category that Petitioner qualifies for under the Medical Assistance Regulations based upon her receipt of RSDI income.

Petitioner's allegation that the spend-down is too expensive and unfair because of her other expenses is a compelling equitable argument to be excused per 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.

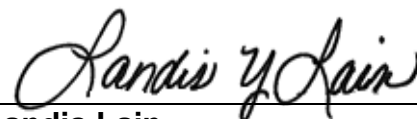
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for \$█ per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence. In addition, 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 monthly \$█ deductible spend-down that she must meet in order to qualify for Medicaid for any medical expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did appropriately determine that claimant had excess income for purposes of Medical Assistance benefit eligibility. The Department appropriately determined that claimant has a deductible spend-down in the amount of \$█ and when it determined that Petitioner was eligible to receive \$█ per month in Food Assistance Program benefits.

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

LL/dh



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

Deborah Little
5131 Grand River Ave.
Detroit, MI 48208

Wayne County (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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