



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 4, 2016
MAHS Docket No.: 16-014648
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 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 2, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearings Facilitator.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) allotment to \$16 effective November 1, 2016?

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 is an ongoing recipient of FAP benefits.
2. On or about February 22, 2016, Petitioner submitted a Redetermination (DHS-1010) in which he informed the Department that he has a [REDACTED] insurance coverage. Exhibit A, pp. 5-10.
3. The Department failed to request verification of the [REDACTED] medical expense as Petitioner properly reported those expenses in the redetermination.

4. On March 16, 2016, Petitioner submitted a medical expense regarding his dental care. Exhibit 1, p. 1.
5. On September 29, 2016, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits decreased to \$16 effective November 1, 2016. Exhibit A, pp. 27-28.
6. On September 29, 2016, Petitioner filed a hearing request, protesting his FAP allotment. Exhibit A, p. 2.

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 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.

Preliminary matter

On October 17, 2016, the Michigan Administrative Hearing System (MAHS) sent Petitioner a notice informing him that his hearing request appears as though it might have been untimely filed in order to address his FAP issue. However, the undersigned Administrative Law Judge (ALJ) concluded that Petitioner's hearing request was timely filed. On September 29, 2016, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits decreased to \$16 effective November 1, 2016. Exhibit A, pp. 27-28. During the hearing, Petitioner indicated that he disputed the decrease of his FAP allotment to \$16. Moreover, Petitioner hearing request to dispute his FAP allotment was received on September 29, 2016. Exhibit A, p. 2. Because Petitioner's hearing request was received on the same day the Notice of Case Action was issued addressing his FAP allotment effective November 1, 2016, the undersigned ALJ has the jurisdiction to address his FAP issue. See BAM 600 (October 2015), pp. 1-6. As such, the undersigned ALJ will address below whether the Department properly decreased Petitioner's FAP allotment effective November 1, 2016, in accordance with Department policy.

FAP allotment

In the present case, Petitioner's certified group size is one and he is a senior/disabled/disabled veteran (SDV) member. As part of the evidence record, the Department presented the November 2016 for review. Exhibit A, pp. 22-23.

First, the Department calculated Petitioner's gross unearned income to be \$1,074, which comprised of his Retirement, Survivors, and Disability Insurance (RSDI) income. Exhibit B, p. 1. Petitioner did not dispute this amount. As such, the undersigned ALJ finds that the Department properly calculated Petitioner's gross unearned income in accordance with Department policy. See BEM 503 (July 2016), p. 28 (the Department counts the gross benefit amount of RSDI benefits as unearned income).

Then, once the Department adds together the total income Petitioner receives, the Department will minus any deductions that he might qualify for. See Exhibit A, p. 22. The first deduction the Department properly applied was the \$151 standard deduction applicable to Petitioner's group size of one. See Exhibit A, p. 22 and RFT 255 (October 2016), p. 1.

Next, because Petitioner is an S/D/V member, he qualifies for any medical expenses that exceed \$35 as a deduction. BEM 554 (June 2016), p. 1. In this case, the Department did not budget any medical expenses for November 2016. Exhibit A, p. 22. However, Petitioner argued that he should be eligible for medical expenses. Specifically, Petitioner claimed the following four medical expenses during the hearing: (i) a medical expense regarding dental care; (ii) [REDACTED] health insurance premium; (iii) a dental premium; and (iv) a life insurance premium. The undersigned ALJ will address each medical expense below:

As to Petitioner's medical expense regarding dental care, Petitioner submitted verification of this expense on March 16, 2016. Exhibit 1, p. 1. The Department failed to establish its burden of showing whether it previously processed this medical expense and applied it as an allowable medical deduction for his FAP benefits. Policy states that allowable medical expenses include dental care. BEM 554, p. 9. As such, the Department is ordered to process Petitioner's submitted dental care expense and determine if whether it can be applied as a medical deduction effective November 1, 2016. See BEM 554, pp. 11-12.

As to Petitioner's [REDACTED] premium, it was discovered that he has an ongoing monthly insurance premium in the amount of \$41.20. Allowable medical expenses include premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). BEM 554, pp. 9-10. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. In this case, Petitioner properly reported the insurance premium in the redetermination dated February 22, 2016. Exhibit A, p. 7. However, the Department failed to request

verification of the [REDACTED] medical expenses as required per policy. See BEM 554, p. 11. Nonetheless, the Department indicated that it ultimately received verification of the insurance premium during the hearing. Thus, it is unnecessary for the undersigned ALJ to order the Department to request verification of this medical expense. As such, the Department will apply the [REDACTED] insurance premium as a medical deduction effective November 1, 2016, in accordance with Department policy. See BEM 554, pp. 9-11.

As to Petitioner's claim that he has a monthly dental insurance premium of approximately \$50-\$55, he failed to provide any proof of such an expense. As stated above, policy states that the Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. In this case, though, Petitioner failed to demonstrate that he reported his dental premium to the Department. If Petitioner reported such an expense, then the Department would be obliged to initiate verification of the dental premium. However, because Petitioner failed to provide sufficient testimony to demonstrate that he previously reported the dental premium to the Department, he is ineligible for this medical deduction effective November 1, 2016. BEM 554, p. 11.

As to Petitioner's claim that he has a life insurance premium, the undersigned ALJ reviewed policy and found that his life insurance policy would not qualify as an allowable medical expense. BEM 554, pp. 9-11.

Then, the budget showed that the Department applied a child support deduction of \$18.50, which he did not dispute. Exhibit A, p. 18 and BEM 554, p. 1 (For group with one or more SDV members, the Department uses court ordered child support and arrearages paid to non-household members).

Finally, the Department provides Petitioner with an excess shelter deduction, which is comprised of his housing costs and utility expenses. The Department presented a shelter budget, which showed that his monthly housing expense is \$233. Exhibit A, p. 24. Petitioner did not dispute this amount.

Additionally, the Department provided Petitioner with the \$526 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$526 amount. See Exhibit A, p. 24; BEM 554, pp. 14-16; and RFT 255, p. 1.

In summary, because the Department did not properly calculate Petitioner's medical expense deduction, the Department is ordered to recalculate Petitioner's FAP allotment effective November 1, 2016.

DECISION AND ORDER


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 did not act in accordance with Department policy when it improperly calculated Petitioner's FAP allotment effective November 1, 2016.

Accordingly, the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP budget for November 1, 2016;
2. Process Petitioner's submitted dental care expense and determine if whether it can be applied as a medical deduction effective November 1, 2016;
3. Apply Petitioner's [REDACTED] insurance premium as a medical deduction effective November 1, 2016;
4. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from November 1, 2016; and
5. Notify Petitioner of its decision.

EF/tm



Eric J. Feldman
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) 335-6088; 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

LaNecia Sigmon
27690 Van Dyke
Warren, MI
48093

Petitioner

[REDACTED]
MI

cc: FAP: M. Holden; D. Sweeney
Macomb County AP Specialist