



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 26, 2017  
MAHS Docket No.: 17-005164  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 May 17, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Eligibility Specialist/Hearing Facilitator, and Phaedra Moore, Case Manager.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly \$838 deductible?

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) benefits?

### **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 recipient of FAP, MA and MSP benefits (Exhibits 2 and 7).

2. Petitioner is disabled and receives \$1233 in monthly Retirement, Survivors and Disability Insurance (RSDI) benefits.
3. Petitioner is the only member of her FAP group.
4. Petitioner pays \$525 in monthly rent and is responsible for heat and/or cooling expenses.
5. The Department pays Petitioner's monthly Medicare Part B premium.
6. In connection with a redetermination, the Department sent Petitioner (i) a March 28, 2017 Notice of Case Action informing her that she was approved for monthly FAP benefits of \$22 and (ii) a Health Care Coverage Determination Notice notifying her that she was approved for MA subject to a monthly \$838 deductible effective May 1, 2017 ongoing and for full-coverage MSP benefits for April 1, 2017 ongoing (Exhibits 5 and 9).
7. On [REDACTED] 2017, the Department received Petitioner's hearing request disputing (i) the reduction of her monthly FAP benefits from \$55 to \$22, (ii) her monthly MA deductible, and (iii) her MSP, specifically asking the Department whether it was continuing to pay her \$149 monthly Medicare.

### **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).

Petitioner requested a hearing to dispute the amount of her FAP benefits and MA deductible. She also requested a hearing concerning her MSP case. MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2016), pp 1-2; BAM 810 (July 2015), pp. 1, 4. In this case, the Department presented a March 28, 2017 Health Care Coverage Determination Notice showing that Petitioner was approved for full-coverage MSP (Exhibit 9). Petitioner's SOLQ report, in which the Department is able to access a client's Social Security information, also showed that the State was paying her Part B Medicare premium and had been since May 1, 2014 (Exhibit 10). The evidence presented by the Department established that Petitioner had been approved for MSP following the redetermination and there was no interruption in benefits. Under these circumstances, Petitioner has failed to raise a valid issue for hearing concerning her MSP case. Accordingly, the MSP issue is dismissed. Petitioner's FAP and MA issues are addressed.

## FAP

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.

Petitioner requested a hearing to dispute the decrease in her monthly FAP benefits from \$55 to \$22 following her redetermination. At the hearing, the information used to calculate Petitioner's FAP benefits from the March 28, 2017 Notice of Case Action was reviewed on the record, and Petitioner confirmed this information. The Department testified that Petitioner's sole income consisted of her gross monthly RSDI income of \$1233. Under Department policy, the Department properly considered Petitioner's gross RSDI benefit income when it calculated FAP benefits. BEM 503 (January 2017), p. 28.

The deductions applied to gross income in determining Petitioner's net income were also reviewed. Because Petitioner is over age 60 and receives RSDI based on a disability, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (January 2017), p. 1. For FAP groups with one or more SDV members and no earned income, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, verified out-of-pocket medical expenses in excess of \$35, and the excess shelter deduction. BEM 554 (January 2017), p. 1; BEM 556 (July 2013), pp. 4-5.

Petitioner, who confirmed that she was the sole member of her household, was properly considered by the Department as a single-member FAP group. As a single-member FAP group, she was eligible for a \$151 standard deduction. RFT 255 (October 2016), p. 1. Petitioner confirmed that she had no child care or child support expenses and had no medical expenses because she was unable to go to the doctor for treatment due to the expense. Therefore, she was not eligible for a deduction for medical expenses. When Petitioner's \$1233 gross RSDI unearned income is reduced by the \$151 standard deduction, her adjusted gross income for FAP purposes is \$1082.

The final deduction available in the calculation of Petitioner's net income for FAP purposes, the excess shelter deduction, is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay **less** (ii) 50% of the client's adjusted gross income, which in this case, is \$541. BEM 556, pp. 4-5.

The Department testified that in calculating Petitioner's excess shelter deduction it considered her monthly rent of \$525, which Petitioner confirmed. The Department also found that Petitioner was responsible for heating and cooling expenses. An individual responsible for heating and/or cooling expenses is eligible for the \$526 heat and utility

(h/u) standard, the most beneficial utility standard available to a client. BEM 554, pp. 14-20; RFT 255, p. 1. Petitioner's total shelter expenses of \$1051 (the sum of her \$525 rent and the \$526 h/u standard) exceed \$541 (50% of her adjusted gross income) by \$510. Therefore, Petitioner is eligible for a \$510 excess shelter deduction to her adjusted gross income.

When Petitioner's adjusted gross income of \$1082 is reduced by her \$510 excess shelter deduction, Petitioner has net income of \$572. Based on net income of \$572 and a group size of one, Petitioner was eligible for monthly benefits of \$22 for April 2017 ongoing. RFT 260 (October 2016), p. 8. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for the certification period including April 2017 ongoing.

### **MA**

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.

Petitioner also requested a hearing to dispute her MA deductible. In the March 28, 2017 Health Care Coverage Determination Notice, the Department notified Petitioner that she was eligible for MA subject to an \$838 monthly deductible. At the hearing, the Department presented evidence showing that the deductible was based on Petitioner's monthly \$1233 RSDI income.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (October 2016), p. 1; BEM 137 (October 2016), p. 1. HMP is a Modified Adjusted Gross Income (MAGI)-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the MAGI methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1.

Because Petitioner was a Medicare recipient and there was no evidence that she was the parent or caretaker of a minor child, she was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. Because Petitioner is unmarried, her fiscal group size for SSI-related MA purposes is one. BEM 211 (January 2016), p. 8. Her net income for MA purposes is \$1213 (her gross RSDI reduced by a \$20 disregard). BEM 541 (April 2017), p. 3.

Based on her net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2013), p. 2; RFT 242 (April 2017), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may nevertheless be eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Wayne County, is \$375 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$375. BEM 545 (January 2017), pp. 2-3. The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit 8).

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged. Therefore, she is not eligible for any remedial service allowances. The State pays Petitioner's monthly Part B Medicare premium, and there was no evidence presented that Petitioner she has any other health insurance premium expenses. Because Petitioner is not responsible for health insurance premiums, she has no allowable need deductions. BEM 544, p. 1.

When Petitioner's \$1213 net income is reduced by the \$375 PIL, Petitioner has excess income of \$838. Therefore, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA subject to a monthly \$838 deductible.

### **DECISION AND ORDER**

Because there was no loss in MSP benefits, Petitioner's hearing request concerning her MSP benefits is DISMISSED.

With respect to Petitioner's FAP and MA issues, 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 calculated Petitioner's monthly FAP allotment and her monthly MA deductible.

Accordingly, the Department's FAP and MA decisions are **AFFIRMED**.



ACE/tlf

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**Alice C. Elkin**  
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

**Via Email:**

MDHHS-Wayne-55-Hearings@michigan.gov  
BSC4 Hearing Decisions  
EQAD  
M. Best  
D. Sweeney  
M. Holden  
MAHS

**Petitioner –  
Via First-Class Mail:**

[REDACTED]  
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