



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 5, 2017
MAHS Docket No.: 17-006855
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 29, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Ali Inea, Eligibility Specialist.

ISSUE

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly determine the Petitioner's Medical Assistance (MA) deductible (Spend Down)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner and her spouse receive Retirement, Survivors and Disability Insurance (RSDI) benefits from the Social Security Administration (SSA).
2. The Petitioner receives \$715.90; and her spouse receive \$1,146 in RSDI benefits.
3. The Petitioner's spouse also receives a Pension of \$250.

4. The Department completed a redetermination for Petitioner's MA in May 2017 and Mid Certification for FAP benefits.
5. The Department issued a Notice of Case Action dated May 15, 2017, approving the Petitioner effective April 1, 2017, for FAP benefits of \$70 per month. Exhibit D.
6. The Petitioner requested a timely hearing on May 12, 2016, and May 22, 2017, protesting the Department's actions.

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.

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.

In this case, the Department reduced the Petitioner's monthly FAP benefits due to its failure to include the Petitioner's RSDI and Petitioner's husband's pension. The increase in income caused the Petitioner's FAP benefits to be reduced; and the Petitioner and her husband's AD care, full coverage MA to be changed to a spend-down effective May 1, 2017.

In this case, the Department presented an FAP budget without any documentation of what income it used to calculate the Petitioner's FAP group income. No State Online Query (SOLQ) for either Petitioner or her spouse were provided. In addition, no MA spend-down information or a spend-down budget were presented in the hearing packet, or at the hearing. The Department could not explain how the Department determined the FAP group income. The Petitioner did not know exactly what the group RSDI income was but reported that the pension of her spouse was \$250. The Petitioner also testified that she paid a Part B premium, which was not reflected on any of the budgets

as a medical expense. The income the Department provided orally at the hearing did not compute to the last budget for May 1, 2017, which used income of \$2,133; and the Department orally advised the income was \$1,862.70. Because the Department did not provide clear evidence of what the Petitioner's income was and conceded that both May 2017 budgets, Exhibit B, the FAP budget for May 2017, and Exhibit C, the second FAP budget for May 2017, were incorrect. See Exhibits B and C. The Department also could not confirm that the pension income was correct as no evidence was provided with the hearing packet. Thus, the Department failed to demonstrate that it properly calculated the Petitioner's FAP benefits.

The Department provided no evidence in support of its imposition of Petitioner's MA request for hearing regarding Petitioner's MA deductible and termination of Petitioner's Ad Care. Thus, the Department failed to meet its burden of proof that the Petitioner's MA deductible was correctly determined.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Petitioner's FAP benefits and did not present any evidence regarding the AD Care closure and imposition of a Medical Assistance deductible.

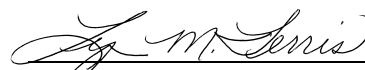
DECISION AND ORDER

Accordingly, the Department's 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. The Department shall reinstate the Petitioner's Ad Care MA benefits as of May 2015 and redetermine the Petitioner's MA eligibility.
2. The Department shall reinstate the Petitioner's FAP benefits to the amount prior to the recent mid certification review and shall recalculate the Petitioner FAP benefits.
3. The Department shall issue the Petitioner an FAP supplement in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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

Petitioner



DHHS

Wayne (76)

BSC4
M Holden
D Sweeney
M Best
EQAD
L M Ferris
MAHS