



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 19, 2018
MAHS Docket No.: 17-015987
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 January 17, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Rupal Patel, Family Independence Specialist, and Ryan Clemons, Family Independence Manager.

ISSUES

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit eligibility?

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 FAP recipient and a MA recipient under the Freedom To Work (FTW) program.
2. On [REDACTED], 2017, Petitioner turned [REDACTED] years of age.
3. On November 14, 2017, Petitioner submitted pay statements from her income from employment (Exhibit D).

4. Petitioner was not married and had no dependent children.
5. Petitioner had unearned income in the form of Retirement, Survivors, and Disability Insurance (RSDI) benefits in the amount of \$1086 per month (Exhibits B and C).
6. On November 28, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was being reduced to \$15 per month effective January 1, 2018, ongoing (Exhibit G).
7. On November 28, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits subject to a \$746 monthly deductible (Exhibit A).
8. On [REDACTED] 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding her MA and FAP benefit cases.

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).

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 submitted a request for hearing, in part, to dispute the Department's calculation of her FAP benefit amount. Petitioner submitted pay statements from her income from employment on November 14, 2017. As a result, Petitioner's FAP benefits were recalculated. The Department sent Petitioner a Notice of Case Action informing her that her FAP benefits were being reduced to \$15 per month effective January 1, 2018, ongoing.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), pp. 1-2. In prospecting income for FAP cases, the Department is required to use income from the past 30 days if it appears to accurately

reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

The Department testified that Petitioner's unearned income was calculated to be \$1086 per month. The Department presented the State On-Line Query (SOLQ) which shows Petitioner receives \$835 per month in RSDI benefits for herself (Exhibit B). The Department also presented documentation showing Petitioner receives an additional \$251 per month in RSDI benefits (Exhibit C). Therefore, the Department properly determined that Petitioner had monthly unearned income in the amount of \$1,086 per month.

The Department testified that Petitioner had earned income in the amount of \$266 per month. The Department presented pay statements that Petitioner submitted from her income from employment (Exhibit E). The pay statements show that Petitioner was paid \$98.49 in gross income on October 2, 2017, and \$149.53 on October 16, 2017. When averaging those amounts and multiplying by the 2.15 multiplier, the amount equals \$266. Therefore, the Department properly determined Petitioner's earned income amount.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 554; BEM 556

There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care and child support expenses.

The Department testified that Petitioner had verified medical expenses of \$26 per month. Petitioner testified that her medical coverage recently changed and her medical expenses increased. However, Petitioner did not submit verification of the increased medical expenses. Therefore, the Department properly determined Petitioner was entitled to a \$26 medical expense deduction.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p.1. Based on Petitioner's earned income, she is entitled to an earned income deduction of \$53. Petitioner's FAP benefit group size of one, justifies a standard deduction of \$160. RFT 255 (October 2017), p. 1. After subtracting the allowable deductions, Petitioner's adjusted gross income to be \$1,113.

In calculating the excess shelter deduction, the Department stated that it considered Petitioner's verified housing expense of \$217.25 and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$537. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$198 per month.

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 \$915. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner is entitled to a FAP benefit amount of \$15. Therefore, the Department acted in accordance with policy when it determined Petitioner's FAP benefit amount.

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.

In this case, Petitioner submitted a request for hearing disputing the Department's calculation of her deductible amount. Petitioner was previously receiving full-coverage benefits under the FTW program. On [REDACTED], 2017, Petitioner turned [REDACTED] years old. Therefore, Petitioner was no longer eligible for benefits under the FTW program. BEM 174 (January 2017), p. 1. The Department determined Petitioner was qualified for MA benefits under the Group 2-SSI-related (G2S) program, subject to a monthly deductible of \$746.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner receives \$1086 per month in RSDI benefits. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8. The Department gives

AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a one-person MA group is \$1025. RFT 242 (April 2017), p. 1. Because Petitioner's monthly household income exceeds \$1025, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. (April 2017). As stated above, Petitioner's SSI-related MA group size is one. Petitioner's net unearned income is \$1066 (her gross RSDI reduced by a \$20 disregard). BEM 541 (April 2017), p. 3. When determining earned income for MA cases, the Department does not average income. BEM 530 (July 2017), pp. 2-4. Therefore, the Department properly determined Petitioner's earned income was \$248 per month based on the pay statements that were received, as stated above. The Department also properly applied the \$65 plus $\frac{1}{2}$ of the fiscal group's remaining earnings disregard. BEM 541, p. 3. Thus, the Department properly determined Petitioner's household net income was \$1,158.

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 Washtenaw County, is \$408 per month. RFT 200, p. 3; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408, 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 \$408. BEM 545 (January 2017), pp. 2-3. The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit F).

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, there was no evidence that Petitioner resides in an adult foster care home or home for the aged. Therefore, she is not eligible for any remedial service allowances. There was evidence that Petitioner was responsible for yearly supplemental insurance premiums in the amount of \$40. The Department averaged the amount to \$3.33 per month. Additionally, Petitioner testified she is now responsible for ongoing medical expenses. However,

Petitioner has not submitted any verified medical expenses. Therefore, the Department properly did not include any deductions for medical expenses.

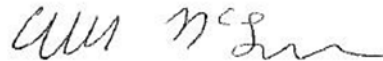
Petitioner's net income of \$1,158 reduced by the \$408 PIL and \$3.33 insurance premium is \$746. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$746.

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 acted in accordance with Department policy when it determined Petitioner's FAP benefit amount and MA eligibility.

Accordingly, the Department's decisions are **AFFIRMED**.

EM/cg



Ellen McLemore
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-Washtenaw-20-Hearings
M. Holden
D. Sweeney
M. Best
EQAD
BSC4-Hearing Decision
MAHS

Petitioner – Via First-Class Mail:

