



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 8, 2018
MAHS Docket No.: 17-016606
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on February 1, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Amber Gibson, Hearing Facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) 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 is an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient as a group of one.
2. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,051. Exhibit A, pp 3-4.
3. Petitioner was approved for Medicare Savings Program (MSP) benefits.
4. On December 20, 2017, the Department received Petitioner's request for a hearing protesting the Department's determination of her eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits. 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 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.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

For a Medicare eligible individual, the income limit to receive “full Medicaid” without a monthly deductible is \$1,025 for a group of one. Department of Health and Human Services Reference Table Manual (RFT) 242 (April 1, 2017), p 1.

The Petitioner receives monthly RSDI in the gross monthly amount of \$1,051. Petitioner was paying for her monthly Medicare premiums out of her social security check but now has those premiums paid by the Department. Therefore, Petitioner’s monthly MA deductible increased after his deduction was removed from her budget.

A review of Petitioner’s case reveals that the Department budgeted correct amount of income received by the Petitioner. Petitioner’s “protected income level” is \$489, and this amount cannot be changed either by the Department or by this Administrative Law

Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$602 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

Petitioner receives monthly RSDI benefits in the gross monthly amount of \$1,051 and this is her sole source of income. Petitioner's adjusted gross income was determined by reducing her monthly income by the \$160 standard deduction. Petitioner was previously eligible for a deduction for her Medicare premiums, but she is no longer responsible for that monthly expense because she no longer has that obligation.

Petitioner remains eligible for a deduction for shelter expenses. Petitioner is responsible for a \$197 monthly housing expense and is responsible for utility expenses separate from housing. Petitioner's excess shelter deduction of \$288 was determined by adding her housing expenses to the standard \$537 heat and utility deduction then subtracting 50% of her adjusted gross income.

Petitioner's net income of \$602 was determined by reducing her adjusted gross income by the excess shelter deduction. A group of one with a net income of \$602 is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017).

Petitioner argued that her benefits are insufficient based on her needs and that it is not fair to reduce her benefits because of a small increase of her social security benefits.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits based on her current circumstances.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

M. Best- via electronic mail

EQAD- via electronic mail

Petitioner

