



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 4, 2018
MAHS Docket No.: 18-009716
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 24, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Christine Brown, Eligibility Specialist. During the hearing, a 171-page packet of documents was offered and admitted as Exhibit A, pp. 1-171. Also, during the hearing, the parties stipulated to the post-hearing admission of a 27-page packet of documents. Those documents were received and admitted as Exhibit A, pp. 1-27.

ISSUE

Did the Department properly deny Petitioner's daughter [REDACTED]' State Disability Assistance (SDA) application?

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

Did the Department properly calculate Petitioner's benefits under the Medicaid (MA) program?

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 lives with her daughter, [REDACTED].

2. On [REDACTED], 2018, Petitioner and [REDACTED] applied for MA, FAP, and SDA benefits with the Department. Along with the applications, Petitioner submitted medical expenses for her and her daughter.
3. The Department denied Petitioner's application for FAP benefits as a result of having excess income.
4. The Department denied Petitioner's application for SDA as a result of her no longer having an active individual plan for employment (IPE) with Michigan Rehabilitation Services (MRS).
5. The Department determined that Petitioner was eligible for MA benefits under GS2 MA with a deductible of \$2,627.
6. On September 14, 2018, Petitioner submitted to the Department a request for hearing objecting to 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

SDA DENIAL

██████ filed for SDA benefits. Persons receiving one or the following benefits or services meet the SDA disability requirement:

- Receives other specified disability-related benefits or services, see Other Benefits or Services, or
- Resides in a qualified Special Living Arrangement (SLA) facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability.
- Receives RSDI income due to disability or blindness.
- Receives SSI due to disability or blindness.
- Receives services from MRS so long as the participation is verified by a current (within the last 12 months) signed copy of the person's individual plan for employment (IPE).

BEM 261 (April 2017), pp. 1-5.

██████ had been previously approved for SDA based on her participation with MRS. That participation was verified by virtue of an IPE from MRS. That IPE was completed on June 27, 2017. Per BEM 261, it was only effective for a one-year period. When ██████ reapplied for SDA in August 2018, she did not have a current IPE. Thus, the Department correctly denied ██████' application as she did not meet the program eligibility requirements.

During the hearing, Petitioner and the Department indicated that after the hearing request was filed, there were further developments with respect to obtaining eligibility for SDA for ██████. The undersigned does not have jurisdiction over those further developments. The Department witness did testify, however, that if Petitioner and ██████ are able to get the necessary verifications, Petitioner may be approved for SDA. Accordingly, the Department showed that it followed Department policy in denying the SDA application as Alexis was not disabled under BEM 261.

FAP DENIAL

Petitioner applied for FAP benefits as a group of two in ██████ 2018. Petitioner is a senior and is entitled to have medical expenses she incurs factored in as an expense to be applied to the calculation of her Food Assistance benefit allotment. BEM 554 (August 2017), pp. 8-12. Petitioner objects to the Department's calculation of her FAP benefits without respect to her monthly medical expenses even though she reported

them to the Department. The Department failed to rebut Petitioner's assertion that she provided notice of the expenses. The FAP budgets presented by the Department show that the Department did not take into consideration any of Petitioner's medical expenses when calculating Petitioner's FAP benefits. Thus, based on the information presented by the Department, the Department did not follow Department policy when it determined that Petitioner was not eligible for FAP benefits.

██████████'S MA

Petitioner was found by the Department to be eligible to receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), 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.

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. According to the budget provided, Petitioner did not receive any deductions for insurance premiums. However, according to the Social Security verification document, Petitioner's Social Security benefits were reduced by \$134 per month for a Medicare Part B premium.

The Department failed to establish that it properly calculated Petitioner's deductible under the G2S MA program. As such, the Department failed to establish that it properly determined Petitioner's MA eligibility.

DECISION AND ORDER

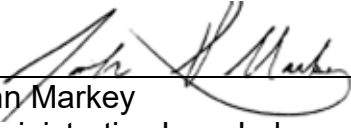
Accordingly, the Department's decision is AFFIRMED in part and REVERSED in part. The Department's denial of Alexis' SDA application is affirmed. The Department's denial of Petitioner's FAP application and determination of Petitioner's MA eligibility is reversed.

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 reregister Petitioner's application for FAP benefits;
2. The Department shall allow Petitioner the opportunity to verify any reported medical expenses that the Department receives and deems insufficiently verified;

3. The Department shall recalculate Petitioner's FAP benefits taking into consideration Petitioner's reported and verified medical expenses, effective September 1, 2018;
4. If Petitioner is eligible for additional FAP benefits, the Department shall issue Petitioner a supplement;
5. The Department shall redetermine Petitioner's MA eligibility as of September 1, 2018, ongoing;
6. The Department shall provide Petitioner with MA benefits she is entitled to receive as of September 1, 2018;
7. The Department shall provide Petitioner with written notice of its determinations.

JM/nr



John Markey
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) 763-0155; 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

Randa Chenault
25620 W. 8 Mile Rd
Southfield, MI
48033

Oakland 3 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

L. Karadsheh- via electronic mail

Petitioner

A large black rectangular redaction box covering the name and contact information of the petitioner.