



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 4, 2018
MAHS Docket No.: 18-010151
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 31, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rechela Hall, Eligibility Specialist. During the hearing, a 58-page packet of documents was offered and admitted as Exhibit A, pp. 1-58.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective September 1, 2018?

Did the Department properly determine Petitioner's Medicaid (MA) benefits, effective September 1, 2018?

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 MA recipient.
2. On September 17, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for MA benefits subject to a monthly deductible of \$1,589.
3. On September 17, 2018, the Department sent to Petitioner a Notice of Case Action informing Petitioner that she was eligible to receive \$15 in monthly FAP benefits.

4. On September 27, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's calculation of her MA and FAP benefits.

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.

Petitioner objects to the Department's change in her FAP and MA benefits. Prior to September 2018, Petitioner received full coverage MA and the maximum FAP benefits per month. Petitioner's eligibility for both programs was improperly calculated due to the Department's actions in the previous few years. Since 2012, every time Petitioner reported a medical expense, the Department logged the expense as a recurring monthly expense, even when those expenses were one-time. Thus, by August 2018, the Department was budgeting nearly \$5,700 in monthly medical expenses when calculating Petitioner's MA and FAP benefits. The Department fixed the error, causing Petitioner's MA coverage to change and her FAP benefits to substantially decrease.

FAP CALCULATION

On September 17, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were approved at a rate of \$15 per month. Petitioner objects to the calculation of her monthly benefits. The Department calculated Petitioner's FAP benefit amount for September 2018, ongoing, by taking into account Petitioner's income and expense information. Petitioner had total monthly income of \$2,838, all of which was unearned. The standard deduction of \$158 was taken out. Petitioner also had recurring medical expenses of \$652. Subtracting both the standard deduction and the medical expenses from Petitioner's gross income resulted in an

adjusted gross income of \$2,028. Petitioner did not report any child care or child support expenses. Thus, those deductions are not applicable.

Petitioner is eligible for the excess shelter deduction. Petitioner had housing costs of \$1,072.65 and was eligible for the h/u standard of \$543. Added together, Petitioner had monthly shelter expenses of \$1,616. The excess shelter deduction is calculated by subtracting from the \$1,616 one half of the adjusted gross income, which is \$1,014. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$602, which the Department properly calculated as Petitioner's excess shelter deduction. Petitioner's net income is then calculated by subtracting the excess shelter deduction (\$602) from the adjusted gross income (\$2,028), which equals \$1,426.

The Food Assistant Issuance Table shows \$15 in monthly FAP benefits for \$1,426 net income for a household of two. RFT 260 (October 2017), p. 19. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits, effective September 1, 2018.

MA BENEFITS

Petitioner was an ongoing MA recipient receiving full coverage. Petitioner's case was flagged for review as a result of the above-mentioned monthly recurring medical expenses. As a result, the Department redetermined Petitioner's MA eligibility. The Department determined Petitioner was eligible for MA benefits subject to a monthly deductible of \$1,589.

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 \$2,838 per month in unearned income. BEM 541 (January 2018), p. 3. As Petitioner is married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is two. 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, p. 2. The income limit for AD-Care for a two-person MA group is \$1,391.67 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2018), p. 1; BEM 541 (January 2018), p. 3. Because Petitioner's monthly household income exceeds \$1,391.67, 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.

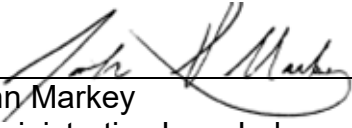
Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As stated above, Petitioner's SSI-related MA group size is one. Petitioner's net income is \$2,818 (her gross RSDI reduced by a \$20 disregard). BEM 541, p. 3. The deductible is 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, 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 two living in Oakland County, is \$541 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 \$541, 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 \$541. BEM 545 (April 2018), pp. 2-3.

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 had paid \$687.01 per month in health insurance premiums. Petitioner's net income of \$2,818 reduced by the \$541 PIL and \$687.01 insurance premium is \$1,589. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$1,589.

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 and MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

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

Petitioner

