

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-017202
Issue No.: 3001 5001
Agency Case No.: [REDACTED]
Hearing Date: November 9, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application.

The second issue is whether MDHHS properly excluded medical expenses in Petitioner's Food Assistance Program (FAP) 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 benefit recipient.
2. On an unspecified date, Petitioner submitted to MDHHS various medical expenses from April 2015 and May 2015.
3. On August 24, 2015, Petitioner applied for SER for help with a water bill connected with her residence.

4. On September 2, 2015, MDHHS denied Petitioner's SER application for the reason that Petitioner's water bill was not connected to her residence.
5. Petitioner's medical expenses have not been fully processed by Medicaid and/or Medicare.
6. MDHHS did not factor Petitioner's medical expenses in Petitioner's FAP eligibility.
7. On September 2, 2015, Petitioner requested hearings to dispute the denial of her SER application and the failure by MDHHS to include medical expenses in her FAP eligibility since May 2015.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Services Emergency Relief Manual (ERM).

Petitioner requested a hearing, in part, to dispute a SER application denial. Petitioner sought help with a water bill balance. MDHHS testimony indicated Petitioner's application was denied because her water bill was not connected to her residential address.

The [water] bill does not have to be in the client's name but it must be connected to the group's current address. ERM 302 (October 2013), p. 1. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency. *Id.*

MDHHS testimony conceded Petitioner's water bill was connected to her address. It is found that MDHHS improperly denied Petitioner's SER application.

Rather than reprocessing Petitioner's SER application, MDHHS mailed Petitioner a SER application and advised Petitioner to reapply. The proper remedy for an improper SER application denial is not for the client to reapply. MDHHS will be ordered to reprocess Petitioner's application.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute her FAP eligibility since April 2015. Various factors affect FAP eligibility (see BEM 556); some factors are group size, earned income, unearned income, standard deductions, housing expenses, and various expenses. Petitioner restricted her dispute to MDHHS' failure to budget medical expenses.

It was disputed whether Petitioner submitted medical expenses to MDHHS. Petitioner alleged she gave her expenses to MDHHS at a hearing dated May 14, 2015. Petitioner further testified that the hearing record would verify her testimony. MDHHS testimony expressed uncertainty concerning Petitioner's testimony. The dispute whether MDHHS properly excluded medical expenses from Petitioner's FAP eligibility can be resolved based on a separate consideration.

[MDHHS is to]... not allow any expense if the entire expense is directly paid by an agency or someone outside of the group. BEM 554 (October 2014), p. 1. An expense that is fully reimbursed is not allowed. *Id.* If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, [MDHHS is to] allow only the amount that the group is responsible to pay, unless specific policy directs otherwise. *Id.*

[MDHHS is to] allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. *Id.*, p. 11. [MDHHS is to] allow only the non-reimbursable portion of a medical expense. *Id.*

A separate hearing was held concerning a dispute of Petitioner's Medicaid and Medicare Savings Program eligibility (see 15-015836). In the corresponding hearing decision, it was found that MDHHS failed to follow an administrative order to issue Qualified Medicare Beneficiary (QMB) benefits to Petitioner.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles (see BEM 165 (January 2015), p. 1). Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.* Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHS funding is available. *Id.*

Petitioner reasonably could not testify with certainty whether her medical expenses would be paid had MDHHS properly issued QMB eligibility. Petitioner testimony did concede that it was possible that issuance of QMB benefits could reduce or eliminate her medical expenses. The possibility increases when factoring that Petitioner's medical

expenses were incurred since April 2015, the same time period when it was conceded that Petitioner should have received Medicaid and QMB (as well as Medicare) benefits.

It is found that Petitioner's submitted medical expenses are potentially payable by Medicare and/or Medicaid. Accordingly, it is found that MDHHS properly did not factor Petitioner's medical expenses.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly excluded Petitioner's submitted medical expenses from a determination of FAP eligibility because they were potentially reimbursable through Medicare and/or Medicaid. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's SER application dated August 24, 2015, requesting help with a water bill; and
- (2) process Petitioner's application subject to the finding that Petitioner's water bill is connected to her residence.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/12/2015**

Date Mailed: **11/12/2015**

CG/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

