



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 23, 2016
MAHS Docket No.: 16-004125
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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, an in-person hearing was held on May 19, 2016, from Flint, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified with her mother, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED] [REDACTED].

PROCEDURAL HISTORY

This matter was originally scheduled for April 27, 2016. On April 18, 2016, the Michigan Administrative Hearing System (MAHS) received the Petitioner's written request for an in-person hearing. On April 19, 2016, Administrative Law Judge Marya Nelson-Davis issued an Adjournment Order for In-Person Hearing. The hearing proceeded as rescheduled. The following exhibits were offered and admitted into evidence:

Department: A--December 7, 2015, Assistance Application.
B--December 15, 2015, Notice of Case Action.
C--Case Comments.

Petitioner: 1-- December 15, 2015; January 13, 2016; January 19, 2016; March 16, 2016 and May 7, 2016, Notice of Case Actions.

ISSUE

Did the Department properly determined the Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) 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. On December 7, 2015, the Petitioner applied for FAP, FIP and MA benefits. On this application, the Petitioner reported that she had been determined to be disabled since April 1, 2013.
2. On December 15, 2015, the Department sent the Petitioner a Notice of Case Action informing the Petitioner that for December, 2015 her monthly FAP allotment was \$█ and, ongoing, it would be \$█ per month.
3. The Petitioner has telephoned her departmental caseworker several times since December 2015 questioning why her monthly FAP allotment changes every month, questioning the determination that she is subject to a deductible on her MA case and protesting the delay in determining her Medicare Savings Program (MSP) eligibility.
4. On March 23, 2016, the Petitioner's departmental caseworker submitted a hearing request based on the Petitioner's verbal hearing request for FAP.

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.

During the hearing, the departmental caseworker who took the action on the Petitioner's case was not present. As such, the Hearing Facilitator logged onto the computer during

the hearing and attempted to determine what happened Petitioner's FAP case. First, the Hearing Facilitator testified that the Petitioner's FAP allotment fluctuates due to her income. Then, that testimony was rescinded because the Petitioner has stable RSDI income. The Hearing Facilitator then testified that the Petitioner's FAP allotment fluctuates due to her shelter expense. As the Hearing Facilitator examined the Petitioner's case further (on the computer during the hearing) the Hearing Facilitator rescinded that testimony as well. Finally, toward the end of the hearing, the Hearing Facilitator conceded that there were so many errors in the Petitioner's FAP case that she had already started the process of re-determining the Petitioner's eligibility for FAP.

Bridges Administrative Manual (BAM) 105 (2015) p.14 provides that, the local office must assist clients who ask for help in completing forms or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, *disabled* or not fluent in English. BAM 130 (2015) p. 3, provides that the Department should also assist clients if they need help obtaining verifications. In this case, the Petitioner credibly testified that she has made repeated phone calls to her caseworker questioning her fluctuating monthly FAP allotment, particularly as her expenses and income do not change. The Petitioner testified that she also submitted a verbal request for her MA and MSP cases. The Petitioner protested when this Administrative Law Judge informed her that hearing requests must be in writing, and submitted within 90 days, for all programs except for FAP. BAM 600.

However, this Administrative Law Judge concludes that the Petitioner made several attempts to have her caseworker help her. This Administrative Law Judge concludes that the Petitioner's caseworker should have long since suggested a hearing on all of the Petitioner's programs, particularly when the Petitioner's FAP allotment fluctuates every month for no apparent reason and also due to exceeding the standard of promptness four and eligibility determination on MSP. The Petitioner also protested the determination of her MA deductible and the delay in approving her MSP case until May 1, 2016. The Petitioner is clearly disabled and needed and requested assistance regarding all of her benefit programs long ago from her caseworker. As such, this Administrative Law Judge provides the Petitioner with a hearing on all of her programs. Unfortunately, the Department had presented no evidence on the Petitioner's MA and MSP cases.

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 did not act in accordance with Department policy when it determined the Petitioner's eligibility for FAP, MA and MSP.

DECISION AND ORDER


Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, INCLUDING ISSUING A NEW ELIGIBILITY DETERMINATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for FAP, MA and MSP back to December 7, 2015, and
2. Issue the Petitioner any supplement she may thereafter be due, and
3. If necessary, issue a bridges helpdesk ticket to effectuate this order, and
4. The Petitioner retains the right to request a hearing on the new eligibility determination.

SH/nr



Susanne E. Harris
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



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]