



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 12, 2016

MAHS Docket No.: 16-008356

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 July 27, 2016, from Detroit, Michigan. The Petitioner appeared pro se. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment and Medical Assistance (MA) 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 a FAP and MA recipient.
2. On June 1, 2016, Petitioner's FAP benefits were lowered due to the removal of a heat/utility expense.
3. Petitioner was denied MA Cost Sharing Program benefits on May 10, 2016 for the month of April, 2016.
4. Petitioner has full MA benefits with no deductible; Petitioner had full MA benefits with no deductible in April, 2016.

5. On June 23, 2016, Petitioner/Petitioner's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions in lowering the FAP benefit amount and denying the MA Cost Sharing Program for April, 2016.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp 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 to .3015.

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.

In the current case, the Petitioner alleged that she pays half of the heat/utility expense for her residence. Petitioner further alleged that this was reported during the interview. No heat/utility expense was given in Petitioner's FAP budget. The Department submitted no evidence or testimony to rebut Petitioner's allegations. Furthermore, Petitioner described the circumstances of the interview in a credible manner. As such, the undersigned finds Petitioner's testimony credible—at the very least raising a discrepancy that should require further verification. As such, the undersigned holds that the Department erred when processing Petitioner's FAP budget, as there is information that Petitioner has a heat/utility expense that should be considered and verified.

With regard to Petitioner's MA Cost Sharing Program denial, the Department submitted a denial notice and an eligibility summary showing that Petitioner had been denied benefits in April, 2016; however, QMB benefits were started in May, 2016. Department Exhibits 6 and 7.

From testimony and documents, it appears that Petitioner applied for these programs in April, 2016. Furthermore, at all times in this process, Petitioner was receiving full MA benefits with no deductible. Department Exhibit 7.

Per policy, QMB coverage can only begin the calendar month after the processing month. BEM 165, pg. 3 (2016). If Petitioner applied in April, 2016, then QMB coverage, per policy, could not begin until May, 2016. Therefore, the Department was correct in awarding QMB coverage starting in May, 2016.

Furthermore, while SLMB coverage can be made available during the processing month, it is only available in months where income exceeds the QMB limit of 100% of the Federal Poverty Limit (FPL). BEM 165, pg. 5 (2016). Per the income reported on Petitioner's redetermination, Petitioner's income did not exceed the FPL, and thus, Petitioner was not eligible for SLMB.

Finally, while Petitioner met the financial requirements for ALMB, per policy, a person is not eligible for ALMB if the person is eligible for and receiving MA benefits. BEM 165, pg. 6 (2016).

Petitioner was receiving full MA benefits, without a deductible, during April, 2016. As such, Petitioner was not eligible for ALMB; Petitioner's notice of case action specifically mentions this as the reason for the denial, and the eligibility summary notes that ALMB benefits were denied during April, 2016.

Therefore, because Petitioner was not eligible for QMB during the application month, and because Petitioner did not meet the requirements for the SLMB and ALMB programs during that month, the undersigned holds that the Department correctly processed Petitioner's MA Cost Share benefit request and denied the request for April, 2016.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefits. The Department satisfied its burden of showing that it acted in accordance with Department policy when it denied Petitioner's MA Cost Share benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** in part, with respect to FAP benefits, and **AFFIRMED** in part, with respect to MA benefits.

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. Seek verification of Petitioner's heat/utility expenses.
2. Recalculate Petitioner's FAP allotment retroactive to the date of negative action, June 1, 2016.

RC/tm



Robert J. Chavez
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

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