



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 1, 2016
MAHS Docket No.: 16-014247
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 21, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly reduce Petitioner's FAP benefits to [REDACTED] per month effective [REDACTED]?

Did the Department properly approve Petitioner's MA benefits subject to a [REDACTED] premium?

Did the Department properly deny Petitioner application for SER 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. Petitioner is an ongoing FAP recipient.
2. Petitioner began working, and as a result, the Department redetermined her eligibility for FAP benefits.

3. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would be decreased to [REDACTED] per month, effective [REDACTED].
4. Petitioner is an ongoing recipient of MA benefits.
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which informed Petitioner that she was eligible for MA benefits subject to a [REDACTED] premium and that she was not eligible for the Medicare Savings Program.
6. On [REDACTED], Petitioner submitted an application for SER benefits to assist with the payment of heat and utility expenses; water and sewage expenses and costs associated with the repair of her driveway and walkway.
7. On [REDACTED], the Department sent Petitioner an SER Decision Notice denying her request for benefits because the total amount of her income/asset copayment and her shortfall (unmet required payments) is equal to or greater than the amount needed to resolve the emergency.
8. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions relating to FAP, MA and SER 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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

FAP

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 4. In this case, Petitioner receives RSDI income in the amount of [REDACTED] per month. Based on paystubs submitted by Petitioner, the Department determined that Petitioner earned [REDACTED] per month.

The Department presented a FAP net income budget showing Petitioner's total monthly income as [REDACTED]. Under Department policy, Petitioner is allowed a 20% earned income deduction in the amount of [REDACTED]. When this amount is subtracted from her total income amount, it results in a post-earned income deduction amount of [REDACTED]. Based on Petitioner's circumstances, she was eligible to receive a standard deduction of [REDACTED] based on her one-person group size RFT 255 (October 2015), p. 1. Claimant was also eligible for a shelter deduction in the amount of [REDACTED]. BEM 556 (July 2013), pp. 4-5. When the standard deduction and the shelter deduction are subtracted from Petitioner's income, her net income amount is [REDACTED].

On [REDACTED], the Department sent Petitioner a Notice of Case Action which notified her that her FAP benefits would decrease to [REDACTED] monthly, effective [REDACTED]. Although the Department indicated that Petitioner was over the net income limit but was allowed to receive [REDACTED] per month because she receives RSDI, a review of the Department's policy indicated that an individual with a group size of one and a net income amount of [REDACTED] is eligible to receive [REDACTED] month notwithstanding whether RSDI is received or not. Accordingly, based on the information available to the Department at the time it redetermined Petitioner's eligibility for benefits and based upon a net income of [REDACTED] it properly determined that Petitioner was entitled to a FAP benefit amount of [REDACTED] per month. RFT 260 (October 2015), p. 12.

MA

Petitioner is disputing the Department's determination that she was eligible for MA under the FTW program subject to a monthly [REDACTED] premium. FTW is a Group 1 SSI-related MA program available to a client age 16 through 64 with disabilities and earned income. BEM 174 (October 2015), p. 1. There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138% of the federal poverty level (FPL). BEM 174, p. 3. A premium of 2.5 percent of income will be charged for an individual with MAGI income between 138 percent of the FPL and \$75,000 annually. *Id* 138% of the FPL for a single-person household is \$16,394.40. See <https://aspe.hhs.gov/poverty-guidelines>.

The Department provided a FTW budget. However, other than providing the figures, the Department did not articulate how it arrived at the [REDACTED] premium. The Department indicated that it used a monthly unearned income amount of [REDACTED] after applying the appropriate \$20.00 Disregard allowed under BEM 541 (January 2016), p. 3. This gave Petitioner an annual unearned income of [REDACTED]. The Department used Petitioner's monthly earned income amount of [REDACTED] when determining eligibility which gave Petitioner an annual earned income of [REDACTED]. When added together, Petitioner's total annual income is [REDACTED], putting her income in excess of 138% of the FPL. It appears that the Department next took the appropriate \$65 + ½ Disregard allowed under BEM 541, p. 3 which provided a net earned income of [REDACTED].

As previously stated, when an individual's annual income is over 138% of the FPL but less than \$75,000, eligibility for FTW is subject to a monthly premium equal to 2.5% of her income. It is unclear what income the Department used to arrive at the premium amount of [REDACTED]. If Petitioner's unearned income of [REDACTED] is used and her net earned income amount of [REDACTED] is used, this results in a total annual income of [REDACTED] ($[REDACTED] + [REDACTED] \times 12$). Using the formula in BEM 174, 2.5% of [REDACTED] is [REDACTED]. When this amount is divided by 12, it leaves a premium amount of [REDACTED]. Because the undersigned is unclear as to how the Department arrived at the premium amount of [REDACTED] and because the Department failed to articulate the basis of the calculations, it is found that the Department did not act within policy when it determined the Petitioner was eligible for MA benefits subject to a [REDACTED] premium.

SER

Additionally, State Emergency Relief (SER) assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2015), p.1. In this case, Petitioner applied for SER benefits on [REDACTED]. The application requested [REDACTED] for water and sewage; [REDACTED] in heat and electricity services as well as [REDACTED] in housing improvement costs.

The Department testified that Petitioner's application was denied relating to the water and sewage costs because the amount she would have been required to submit as a copayment was higher than the amount requested. The Department submitted a budget to support this assertion. A review of the budget submitted by the Department revealed that Petitioner would have been required to submit a copayment in the amount of [REDACTED]. Following a review of Department policy, it is found that the Department properly calculated the cost of the copayment. Notwithstanding this, Petitioner testified that she has since paid the water and sewage costs and as such, the need no longer exists.

The Department testified that it denied the heat and utility request for assistance because the request was not made during the crisis season which runs from November 1 through May 31. Under Department policy, for energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will

be denied June 1 through October 31. ERM 301 (October 2015), p. 1. Thus, the Department properly denied Petitioner's request for heat and utility assistance.

Petitioner also requested [REDACTED] in assistance with the cost of repairing her driveway and walkway. Petitioner testified that her driveway and walkway are still in need of repair. There was no testimony taken at the hearing as to whether Petitioner is the homeowner or if she rents the residence. Under Department policy, an SER group is entitled to benefits if the group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. ERM 304 (October 2015), p. 4.

Additionally, Petitioner stated that she did not provide an estimate because she was not sure if her application would be approved. Under Department policy, at least one (maybe more) estimate is required. ERM 304, p. 5. Further, under Department policy the non-energy-related home repair maximum of \$1,500.00 ERM 304, p. 5. As such, Petitioner cannot receive more than a lifetime maximum of \$1,500.00 in assistance for repairs to her walkway and/or driveway. In its denial, the Department did not address whether Petitioner's request for home improvement services were approved or denied. As such, it is found that the Department failed to process this portion of Petitioner's application.

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 approved Petitioner for FAP benefits in the amount of [REDACTED] per month.

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 approved Petitioner for MA benefits submit to a [REDACTED] monthly premium.

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 denied Petitioner's request SER benefits relating to water and sewage assistance as well as heat and utility assistance. However, the Department did not act in accordance with policy when it failed to provide Petitioner with notice regarding her application for SER benefits relating to home improvement.

The Department's decision to approve Petitioner for FAP benefits in the amount of [REDACTED] effective [REDACTED] is **AFFIRMED**.

The Department's decision to approve Petitioner for MA benefits subject to a [REDACTED] monthly premium is **REVERSED**.

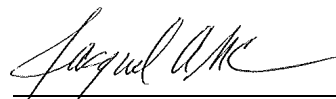
The Department's decision to deny Petitioner's Request for SER benefits relating to [REDACTED] application for water and sewage assistance as well as heat and utility assistance is **AFFIRMED**.

The Department's decision to deny Petitioner's Request for SER benefits relating to home improvement 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. Redetermine Petitioner's eligibility for MA benefits effective [REDACTED];
2. Issue supplements Petitioner was eligible to receive but did not relating to MA benefits effective [REDACTED];
3. Redetermine Petitioner's eligibility for SER benefits relating to her [REDACTED], [REDACTED] application for home improvements only; and
4. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton

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]

Petitioner

[REDACTED]