



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 16, 2016
MAHS Docket No.: 16-001106
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 March 8, 2016, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Eligibility Specialist [REDACTED] and Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on January 13, 2016?

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 recipient of Food Assistance Program (FAP) benefits.
2. On November 2, 2015, Petitioner submitted five medical expense receipts from: 10/6/2015; 10/7/2015; 10/13/2015; 10/15/2015; and 10/20/2015.
3. On November 20, 2015, Petitioner submitted eight medical expense receipts from: 10/23/15; 11/5/2015; 11/9/2015; 11/15/2015; 11/15/2015; 11/17/2015; 11/17/2015; and 11/18/2015.
4. On November 24, 2015, Petitioner submitted two medical expense receipts from 11/15/2015 and 11/20/2015.

5. On November 28, 2015, Petitioner submitted a medical expense receipt from 11/28/2015.
6. On December 1, 2015, Petitioner submitted a medical expense receipt from 11/23/2015.
7. On December 30, 2015, Petitioner submitted ten medical expense receipts from: 12/2/2015; 12/4/2015; 12/4/2015; 12/4/2015; 12/5/2015; 12/19/2015; 12/21/2015; 12/26/2015; 12/26/2015; and 12/27/2015.
8. On January 13, 2016, Petitioner was sent a Benefit Notice (DHS-176) which stated his Food Assistance Program (FAP) benefits would be \$ [REDACTED] per month beginning January. The notice indicated that Petitioner's Food Assistance Program (FAP) financial eligibility budget contained unearned income of \$ [REDACTED] and medical expenses of \$ [REDACTED].
9. On January 22, 2016, Petitioner submitted a hearing request.
10. On January 25, 2016, Petitioner submitted a different hearing request.
11. On February 3, 2016, Petitioner submitted yet another, different hearing request.

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.

January 22, 2015 hearing request

In this hearing request Petitioner asserting the February 2016 FAP amount is incorrect because medical and prescription bills were not factored into the allotment. Bridges Eligibility Manual (BEM) 554 FAP Allowable Expenses and Expense Budgeting (10-1-2015) provides:

MEDICAL EXPENSES

Application and Redetermination

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons; see Expenses for Disqualified or Ineligible Persons in this item. Estimate an SDV person's medical expenses for the benefit period. Base the estimate on all of the following:

Verified allowable medical expenses.

Available information about the SDV member's medical condition and health insurance.

Changes that can reasonably be anticipated to occur during the benefit period.

During the Benefit Period

A FAP group is not required to, but may voluntarily report changes during the benefit period. Process changes during the benefit period **only** if they are one of the following:

Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.

Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

One-Time-Only Expenses

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Bridges will allow the expense in the first benefit month the change can affect.

Allowable Medical Expenses

Allowable medical expenses are limited to the following:

Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.

Prescription drugs and the postage for mail-ordered prescriptions.

Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).

Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.

Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s).

Medicare premiums.

Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)

Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.

Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dtmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High Cost Cities using the rate for the current year.

The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it **must** be treated as a medical expense.

A Medicaid deductible is allowed if the following are true.

The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.

The medical expenses are not overdue. See below.

Note: Medical marijuana is **not** an allowable medical expense.

Estimating and Determining an Allowable Medical Expense

Estimate an SDV person's medical expenses for the benefit period. The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is

provided. Allow **only** the non-reimbursable portion of a medical expense. The medical bill cannot be overdue.

The medical bill is **not** overdue if one of the following conditions exists:

Currently incurred (for example, in the same month, ongoing, etc.).

Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).

Client made a payment arrangement before the medical bill became overdue.

VERIFICATION

Verify allowable medical expenses including the **amount of reimbursement**, at initial application and redetermination. Verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits.

Do not verify other factors, unless questionable. Other factors include things like the allow ability of the service or the eligibility of the person incurring the cost.

VERIFICATION SOURCES

Acceptable verification sources include, but are not limited to:

Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.

Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.

DHS-54A, Medical Needs, completed by a licensed health professional.

SOLQ for Medicare premiums.

Written statements from licensed health care professionals.

Collateral contact with the provider. (Most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

The medical expense amount in the January 13, 2016 Food Assistance Program (FAP) financial eligibility budget is \$ [REDACTED]. The five pages of Medical Expense Summary submitted by the Department shows 28 expenses reported by Petitioner between October 6, 2015 and December 30, 2015. The remaining client liability amount listed in BRIDGES from those reported expenses totals up to \$ [REDACTED]. This evidence does not show that the Department has properly calculated Petitioner's Food Assistance Program (FAP) eligibility.

January 25, 2015 hearing request

In this hearing request Petitioner requested an audit of his FAP case file for the prior 90 days based on his belief that medical and prescription costs had not been credited to his FAP allotment.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

Bridges Administration Manual (BAM) 600 Hearings is the Department's policy guidance derived from the administrative rules cited above. BAM 600 requires that a request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. (Page 2) It also specifies that a hearing request must be submitted within 90 calendar days of the date of a written notice of case action. (Page 6) Department actions for which a hearing is granted are provided on pages 4 & 5 as follows:

Granting a Hearing

All Programs

MAHS may grant a hearing about any of the following:

Denial of an application and/or supplemental payments.

Reduction in the amount of program benefits or service.

Suspension or termination of program benefits or service.

Restrictions under which benefits or services are provided.

Delay of any action beyond standards of promptness.

For **FAP only**, the current level of benefits or denial of expedited service.

In this hearing request, Petitioner has expressed dissatisfaction with the Department based on his beliefs. An Administrative Law Hearing is not an audit but rather the review of a specific eligibility determination made by the Department following proper notice being sent to an applicant or recipient. Petitioner's request is not a request for a hearing nor does it fall within the issues on which a hearing may be conducted. Therefore, Petitioner's January 25, 2015 hearing request is dismissed for lack of jurisdiction.

February 3, 2016 hearing request

In this hearing request Petitioner asserts that the unearned income in the financial eligibility budget was less than reported. Petitioner submitted a 2015 1099-MISC Income Form with the hearing request. Petitioner testified that the income is from mineral royalties and is variable. The updated income information had not been submitted to the Department prior to the January 13, 2016 Food Assistance Program (FAP) eligibility determination. This February 3, 2016 hearing request is not a hearing request in accordance with Bridges Administration Manual (BAM) 600 Hearings. Therefore, Petitioner's February 3, 2016 hearing request is dismissed for lack of jurisdiction.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's Food Assistance Program (FAP) eligibility on January 13, 2016.

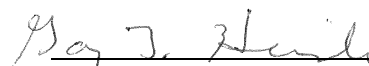
DECISION AND ORDER

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, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine Petitioner's Food Assistance Program (FAP) eligibility for the period February 1, 2016 ongoing.

GH/nr



Gary Heisler
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]

Petitioner

[Redacted]