



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: September 14, 2016
MAHS Docket No.: 16-008206
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, an in-person hearing was held on September 8, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility.

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

The fourth issue is whether MDHHS failed to process Petitioner's SER application for energy services.

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 Medicaid and MSP recipient.

2. On an unspecified date, MDHHS may have terminated Petitioner's MSP and Medicaid eligibility.
3. On [REDACTED], Petitioner applied for SER seeking assistance with relocation and electricity.
4. As of [REDACTED], Petitioner reported to MDHHS, a household income of \$656/month.
5. The rent at Petitioner's prospective residence was \$700.
6. On [REDACTED], MDHHS denied Petitioner's SER application due to the prospective residence's rent not being affordable.
7. MDHHS did not process Petitioner's SER request for electricity bill assistance.
8. On [REDACTED], Petitioner requested a hearing to dispute a termination of MSP and Medicaid, as well as denial of SER concerning electricity and relocation.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. 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 a termination of Medicaid and MSP eligibility, effective May 2016. Petitioner testified part of her reason for believing that MA eligibility ended was that she was that a dentist told her she could not be seen due to a lack of medical coverage. Neither MDHHS nor Petitioner presented a Notice of Case Action to verify what actions, if any, were taken.

MDHHS testimony conceded Petitioner's MA eligibility ceased at one or more points in time. MDHHS also presented testimony that whatever negative action was taken to Petitioner's Medicaid and/or MSP eligibility, the action was corrected so that Petitioner should now have no lapse in coverage. MDHHS presented documentation in an attempt to verify the testimony.

MDHHS presented an Eligibility Summary (Exhibit 1, p. 1) dated [REDACTED]. The summary stated that Petitioner was “approved” for QMB beginning October 2016. No other “approved” programs were listed for any other months.

MDHHS also presented a document which was not admitted as an exhibit. The document was suggestive that Petitioner received Medicaid through the Healthy Michigan Plan for the months from May 2016 through July 2016. The document contradicted the Eligibility Summary which stated “no change” to Petitioner’s HMP coverage for May 2016 and June 2016 and “closed” HMP coverage beginning July 2016.

MDHHS documents admitted into evidence only definitively verified MSP coverage from October 2016. MDHHS will be ordered to issue full Medicaid and MSP benefits to Petitioner for from May 2016.

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 denial of an SER application seeking assistance for relocation. Petitioner testimony indicated she was getting evicted from her residence and sought \$700 towards a first month’s rent and/or security deposit for a new residence.

In their case summary, MDHHS alleged Petitioner did not apply for SER in the previous 6 months. Later MDHHS testimony conceded Petitioner indeed applied for SER on [REDACTED]

MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 2) dated [REDACTED]. The notice stated Petitioner’s SER application was denied due to Petitioner’s shelter not being affordable.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 (October 2015), p. 1. [MDHHS is to] authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.* An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.* [MDHHS is to] deny SER if the group does not have sufficient income to meet their total housing obligation. *Id.*

The total housing obligation cannot exceed 75 percent of the group’s total net countable income [if no utilities are included in the rent obligation]. *Id.* The percentage increases up to 100 percent, depending on which utilities are included in the client’s housing obligation (see *Id.*, p. 3).

Petitioner testified that no utilities were included with her rent. Thus, Petitioner's rent is only affordable if 75% of her total net countable income equals or exceeds her rent obligation.

It was not disputed that the rent of Petitioner's prospective residence was \$700. With no utilities included, Petitioner must have an income of approximately \$933.33 for her rent to be deemed affordable. Petitioner testimony conceded her reported total household income at the time of her SER application was \$656.

It is found MDHHS properly denied Petitioner's SER application for relocation. The analysis will proceed to determine a dispute concerning the same SER application.

Petitioner requested a hearing, in part, to dispute a SER denial of energy services. Neither MDHHS nor Petitioner presented written notice of denial concerning energy services. MDHHS contended written notice was not needed because Petitioner did not apply for SER for energy services.

The application for SER is the DHS-1514, Application for State Emergency Relief. ERM 103 (October 2015), p. 1. All SER applicants must complete this form unless they apply online through MIBridges for an SER covered service. *Id.* [MDHHS is to inform all SER applicants in writing of the decision made on their application. *Id.*, p. 3. [MDHHS is to] mail or give the DHS-1419, Decision Notice, to the applicant. *Id.* The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. *Id.*, p. 6.

During the hearing, MDHHS was asked to present Petitioner's SER application from [REDACTED] (Exhibit 1, pp. 3-6). Under a section asking Petitioner to check the services requested, "Electricity" services was clearly checked.

It is found Petitioner applied for SER for energy services and that MDHHS failed to process Petitioner's energy services request. MDHHS will be ordered to register and process Petitioner's SER application for energy services.

More than three months have elapsed since Petitioner applied for SER seeking energy services. The status of Petitioner's current need for SER services for electricity was not verified. In past hearings with similar circumstances, MDHHS sometimes expressed an intent to deny the SER application because a client may have resolved the emergency since applying for SER. This course of action is unjust as MDHHS should not penalize resourceful clients who pursued alternative resolutions following an improper MDHHS action. MDHHS will be specifically ordered to process Petitioner's application based on the status of her emergency as of the date of application.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application concerning relocation due to Petitioner's rent being unaffordable. The actions of MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid and MSP eligibility. It is further found that MDHHS improperly failed to process Petitioner's SER application concerning energy services. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's Medicaid and MSP eligibility, effective May 2016;
- (2) Re-register Petitioner's SER application dated [REDACTED], concerning energy services; and
- (3) Process Petitioner's SER application based on the circumstances at the time of Petitioner's SER application date.

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

CG/hw



Christian Gardocki
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]