



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: January 12, 2017
MAHS Docket No.: 16-017185
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, a telephone hearing was held on January 4, 2017, from Detroit, Michigan. Petitioner appeared, via telephone, and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) failed to participate in the hearing.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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 an ongoing FAP benefit recipient.
2. Petitioner timely reported and verified to MDHHS monthly medical expenses totaling [REDACTED].
3. Petitioner timely reported and verified to MDHHS housing expenses averaging [REDACTED]/month.
4. On [REDACTED], MDHHS determined Petitioner's FAP eligibility, effective November 2016, in part, based on [REDACTED] in countable medical expenses and [REDACTED] in housing costs.

5. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility from November 2016 and Medical Assistance (MA) eligibility.
6. Petitioner withdrew her dispute concerning MA eligibility.

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 MA eligibility. Petitioner's hearing request did not identify a dispute; only that she didn't understand the MDHHS actions.

Petitioner testified MDHHS approved her for Medicaid deductible. Petitioner testified she never applied for Medicaid. Petitioner testimony expressed surprise after being told by her specialist that she had received Medicaid for an extended period of time. Petitioner testified she had a better understanding of her MA eligibility after talking with her specialist. Petitioner testified she receives Medicare and pays for private health insurance and is not particularly concerned about Medicaid coverage.

Petitioner testified she wished to withdraw her hearing request concern MA eligibility. Petitioner's hearing request concerning MA eligibility will be dismissed based on her requested withdrawal.

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. MDHHS (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. 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 FAP eligibility. Petitioner testified she wished to dispute FAP eligibility from July 2016.

Petitioner's hearing request identified FAP benefits as disputed. The hearing request did not provide any further information about the nature of Petitioner's dispute.

Clients should expect to receive notices of MDHHS actions, along with explanations for the actions. Similarly, when clients request a hearing, some details concerning the disputed action should be provided so that MDHHS can adequately respond to the request. A dispute concerning FAP eligibility from July 2016 cannot be inferred from Petitioner's hearing request statements. The most reasonable inference that can be made from Petitioner's hearing request is a dispute of the FAP action closest to and before Petitioner's hearing request submission.

Hearing packet documents indicated MDHHS sent Petitioner a notice of FAP eligibility (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice informed Petitioner she was eligible to receive [REDACTED] in FAP benefits beginning November 2016. The notice appeared to be the action nearest in time before Petitioner requested a hearing. Petitioner's hearing request will be interpreted as a dispute concerning FAP eligibility from November 2016.

The presented FAP eligibility notice included a budget summary (see Exhibit 1, p. 2). All relevant budget factors were discussed with Petitioner. Petitioner disputed two specific budget factors.

Petitioner testified she paid [REDACTED] for medical insurance, as well as [REDACTED]/month for dental coverage. Petitioner alleged she reported and verified her expenses to MDHHS. MDHHS factored Petitioner's medical expenses to be [REDACTED]. MDHHS is known to apply a [REDACTED] deductible to medical expenses (see BEM 556); thus, MDHHS appeared to factor Petitioner's actual monthly medical expenses to be [REDACTED].

Petitioner testified her property taxes totaled [REDACTED]. Petitioner testified she paid [REDACTED] per year for housing insurance. The monthly average housing, per Petitioner's testimony, is [REDACTED]. MDHHS factored a monthly housing cost of [REDACTED].

Petitioner's testimony concerning expenses was credible, however, documentation is a much more reliable verification of housing and medical expenses. Petitioner provided no verification of her statements.

Due to the lack of reliable verification, it is tempting to order MDHHS to simply redetermine Petitioner's FAP eligibility from November 2016. The problem with such a tack is that, without ordering specific changes, MDHHS would be under no obligation to alter the November 2016 FAP benefit determination.

MDHHS failure to participate in the hearing rendered Petitioner to be disadvantaged. MDHHS' lack of participation justified an administrative remedy favoring Petitioner's credible and un rebutted testimony. MDHHS will be ordered to redetermine Petitioner's eligibility subject to the expenses stated by Petitioner. If Petitioner's stated expenses are incorrect and/or unverified, MDHHS will have to make changes in Petitioner's FAP eligibility following compliance with the administrative order.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her MA benefit dispute. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility from November 2016. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

(1) Redetermine Petitioner's FAP eligibility, effective November 2016, subject to the following findings:

- a. Petitioner's verified medical expenses are [REDACTED];
- b. Petitioner's verified housing expenses are [REDACTED]/month; and

(2) Initiate a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **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]