



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: March 13, 2017
MAHS Docket No.: 17-001952
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 9, 2017, from Detroit, Michigan. Petitioner, [REDACTED]; and her spouse, [REDACTED] were present for the hearing and both provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist; and [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits effective February 1, 2017?

Did the Department properly determine that Petitioner and her spouse were eligible for Transitional Medical Assistance (TMA) coverage effective February 1, 2017?

Did the Department properly process Petitioner's request for State Emergency Relief (SER) assistance with electric?

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 FAP benefits.
2. Petitioner and her spouse are ongoing Medical Assistance (MA) recipients.

3. On January 9, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that an automatic renewal of her health care coverage occurred and her and her spouse were found eligible for TMA (full coverage) effective February 1, 2017. Exhibit A, pp. 97-100.
4. On January 20, 2017, Petitioner applied for SER assistance with electric. Exhibit A, pp. 5-34.
5. In the application, Petitioner reported both checking and savings accounts. Exhibit A, pp. 18-19.
6. On January 24, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved for [REDACTED] effective February 1, 2017. Exhibit A, pp. 87-92.
7. On January 24, 2017, the Department sent Petitioner an SER Decision Notice, which required her to pay [REDACTED] for the electric service and then once she pays her total payment; the Department would pay [REDACTED] towards the electric service (total request was [REDACTED] for past due balance). Exhibit A, pp. 42 and 93-96.
8. On January 27, 2017, Petitioner filed a hearing request, protesting the Department's actin. Exhibit A, pp. 3-4.
9. On January 30, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits increased to [REDACTED] effective February 1, 2017. Exhibit A, pp. 81-86.

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.

Preliminary matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) did the Department properly calculate Petitioner's FAP benefit effective February 1, 2017; (ii) did the Department properly determine that Petitioner and her spouse were eligible for TMA coverage effective February 1, 2017; and (iii) whether the Department properly processed Petitioner's SER assistance with electric. Exhibit A, pp. 3-4. The undersigned Administrative Law Judge (ALJ) addresses Petitioner's concerns below:

FAP benefits

In the present case, on January 24, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved for \$█ effective February 1, 2017. Exhibit A, pp. 87-92. On January 27, 2017, Petitioner filed a hearing request, protesting the amount of her FAP allotment approval. Exhibit A, pp. 3-4. Subsequent to the hearing request, the Department increased Petitioner's FAP allotment to █ effective February 1, 2017. Exhibit A, pp. 81-86. Because Petitioner's FAP benefits had increased effective February 1, 2017, she is no longer disputing her FAP hearing issue. As such, the undersigned ALJ concludes that Petitioner's FAP hearing issue is DISMISSED because the issue has been resolved.

MA benefits

In the present case, an automatic renewal of Petitioner and her spouse's health care coverage occurred and it was determined they were found eligible for TMA (full coverage) effective February 1, 2017. Exhibit A, pp. 97-100. However, Petitioner argued that she and her husband should be eligible for Low-Income Family (LIF) – MA coverage. Petitioner testified that the household earns approximately █ a year.

LIF is a Modified Adjusted Gross Income (MAGI)-related MA category. BEM 110 (January 2014), p. 1. LIF eligibility under the Affordable Care Act (ACA) will be a MAGI-related eligibility subgroup. BEM 110, p. 1. Eligibility for LIF will be derived after a successful MAGI-related eligibility determination for either Parent/Caretaker Relative or Children Under 19. BEM 110, p. 1. Adults with a dependent child and income under 54% of the Federal Poverty Level (FPL) will be considered LIF eligible. BEM 110, p. 1. Children with Income under 54% of the Federal Poverty will be considered LIF eligible. BEM 110, p. 1.

As shown above, in order for Petitioner and her spouse, who have a dependent child, to be eligible for LIF, their income must be under 54% of the FPL. BEM 110, p. 1. It is undisputed that Petitioner's household composition for purposes of MAGI-related coverage is six. The 2017 Poverty Guidelines indicated that the poverty guidelines for persons in family/household size of six is ██████████ 2017 Poverty Guidelines, U.S. Department of Health & Human Services, January 26, 2017, p. 1. Available at: <https://aspe.hhs.gov/poverty-guidelines>. However, the poverty guidelines for a household size of six must be multiplied by .54 (54%) to obtain the 54% FPL calculation for the LIF program. The result is that Petitioner's annual income must be at or below ██████████ (██████████ multiplied by .54) of the FPL for a household size of six. However, Petitioner testified her household's income is approximately ██████████, which makes her ineligible for the LIF program effective February 1, 2017 because her income is not under 54% of the FPL.

Instead, the Department found Petitioner and her spouse to be eligible for TMA effective February 1, 2017. TMA is an automatic coverage group. BEM 111 (April 2015), p. 1. TMA eligibility is only considered after LIF. BEM 111, p. 1. Individuals may receive TMA for up to 12 months when ineligibility for LIF relates to income from employment of a caretaker relative. BEM 111, p. 1. TMA starts the month in which LIF ineligibility began regardless of when the LIF eligibility actually ended. BEM 111, p. 1. A new or updated application for healthcare coverage is not required to transfer to Transitional Medical Assistance (TMA). BEM 111, p. 1.

Based on the forgoing information and evidence, the Department properly determined that Petitioner and her spouse were eligible for TMA coverage effective February 1, 2017. As stated previously, Petitioner and her spouse were ineligible for LIF coverage due to excess income. The Department then properly followed policy to determine if she and her spouse were eligible for TMA coverage, which, as shown above, they were. See BEM 111, p. 1. As such, the Department acted in accordance with Department policy when it determined Petitioner and her spouse were eligible for TMA coverage effective February 1, 2017. BEM 110, p. 1 and BEM 111, pp. 1-2.

SER application

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2015), p. 1. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301, p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 2. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. ERM 301, p. 2.

In this case, on January 24, 2017, the Department sent Petitioner an SER Decision Notice, which required that her to pay ██████████ for the electric service and then once she pays her total payment; the Department would pay ██████████ towards the electric service

(total request was ██████ for past due balance). Exhibit A, pp. 42 and 93-96. Petitioner's total payment consisted of a ██████ asset copayment. There are no income copayment for SER energy services. ERM 208 (October 2015), p. 1. However, energy services do include an asset copayment. In most cases, cash assets in excess of ██████ result in an asset copayment. ERM 208, p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1. The Department indicated that Petitioner's case file contained the following bank statement balances: (i) ██████ savings account balance of ██████; (ii) ██████ checking account balance of ██████ and (iii) an ██████ (hereinafter ██████) checking account ending balance of ██████ Exhibit A pp. 41 and 59. The Department testified that it added these three amounts together, then minus the ██████ asset copayment exclusion, resulted in the ██████ asset copayment. See ERM 208, p. 1.

Petitioner disagreed with the asset copayment calculation and argued that there should have not been any asset copayment. Petitioner argued that her ██████ account contained employment income payments (i.e., direct deposit), and per policy, those payments should have been counted as income, not assets. The undersigned ALJ agrees.

The Department verifies and counts all non-excluded assets of State Emergency Relief (SER) group members for all SER services with every application. ERM 208 (October 2015), p. 1. Count only available assets when determining SER eligibility. ERM 208, p. 1. Consider an asset totally available unless it is claimed and verified that a portion of the asset's value belongs to another individual. ERM 205, p. 1.

The SER group must use countable cash assets to assist in resolving their emergency. ERM 205, p. 1. The protected cash asset limit is ██████ ERM 205, p. 1. Exclude the first ██████ of an SER group's cash assets. ERM 205, p. 1. The amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. ERM 205, p. 1.

Examples of cash assets are amounts on deposit in banks, savings and loan associations, credit unions and other financial institutions. ERM 205, p. 2. However, there is policy guidance for excluded assets, which includes the budgetable portion of income deposited into a checking or savings account. ERM 205, p. 3. Do not count the same funds as both income and an asset in the same month. ERM 205, p. 3.

Based on the forgoing information and evidence, the Department did not properly process Petitioner's request for SER assistance with electric. A review of Petitioner's ██████ statement, found the following budgetable portion of income deposited into the account: (i) ██████ on December 2, 2016; (ii) ██████ on December 15, 2016; and (iii) it appears the deposit of ██████ on December 9, 2016, was also income. Exhibit A, p. 41. Based on this information, the Department should have excluded the budgetable portion of income that was deposited into their ██████ checking account. See ERM 205, p. 3. Petitioner had an ending balance of ██████ and if the Department excluded the budgetable portion of income that was deposited into their

account, they were below the protected cash asset limit of ██████████ SER energy services. ERM 205, p. 1. Therefore, Petitioner is asset eligible for the SER assistance request with electric bill in accordance with Department policy. ERM 205, pp. 1-3 and ERM 208, p. 1. The Department is ordered to reregister and initiate processing of the SER assistance request for electric bill with an effective date of January 20, 2017.

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 (i) Petitioner's FAP hearing request is **DISMISSED**; (ii) the Department acted in accordance with Department policy when it determined Petitioner and her spouse were eligible for TMA coverage effective February 1, 2017; and (iii) the Department did not properly process Petitioner's request for SER assistance with electric bill dated January 20, 2017.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA benefits and **REVERSED IN PART** with respect to SER assistance with electric bill.

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. Initiate re-registration and reprocessing of Petitioner's SER application for electric bill dated January 20, 2017, in accordance with Department policy and as the circumstances existed at the time of application;
2. Issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from date of application;
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's FAP hearing request is **DISMISSED**.

EF/tm



Eric J. Feldman

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]
[REDACTED]
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CC: [REDACTED]
[REDACTED]