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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: July 5, 2017
MAHS Docket No.: 17-006537
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; 42 CFR 438.400 to 438.424; 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 [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUES

1. Did the Department properly process Petitioner's reported change in group compositions?
2. Did the Department properly close Petitioner's Food Assistance Program (FAP) effective [REDACTED]?
3. Did the Department properly calculate Petitioner's Medical Assistance (MA) - Group 2 Caretaker Relatives (G2C) coverage with a monthly \$ [REDACTED] deductible for [REDACTED] ongoing?
4. Did the Department properly determine Petitioner's eligibility for the Child Development and Care (CDC) program?

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 recipient of FAP benefits.
2. Petitioner is an ongoing recipient of MA-G2C coverage and CDC coverage.
3. Petitioner's group composition is currently four and consists of the following individuals:
 - a. Petitioner;
 - b. Child A (date of birth: [REDACTED]);
 - c. Child B (date of birth: [REDACTED]); and
 - d. Child C (date of birth: [REDACTED]).
4. Per the credible testimony of Petitioner, she timely reported to the Department that Child B was a member of her household as of [REDACTED].
5. Per the credible testimony of Petitioner, she timely reported to the Department that Child A was a member of her household as of [REDACTED].
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, because her net income exceeds the limits. [Exhibit B, pp. 6-12.]
7. The Notice of Case Action also notified Petitioner of Child A, Child B, and Child C's CDC eligibility. [Exhibit B, pp. 6-12.]
8. The Hearing Summary stated that after processing an [REDACTED] Redetermination and recent check stubs she provided from two different employer's, Petitioner's income increased, resulting in a monthly deductible for the G2C coverage. [Exhibit A, pp. 1 and 13-15.]
9. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA benefits effective [REDACTED], ongoing (with a \$ [REDACTED] monthly deductible). [Exhibit A, pp. 3-10.]
10. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 2.]

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Preliminary matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) the Department did not properly process her reported change in group compositions; (ii) the closure of her FAP benefits effective [REDACTED], ongoing; (iii) did the Department properly calculate her G2C coverage with a monthly \$ [REDACTED] deductible for [REDACTED], ongoing; and (iv) did the Department properly determined Petitioner's CDC eligibility concerning Child B and Child C. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

Group composition

The first issue Petitioner disputed was the Department's failure to properly process her reported change in group compositions. Specifically, Petitioner testified that she left a voicemail for her caseworker in [REDACTED], reporting that Child B was a member of her household. However, Petitioner testified the Department did not add Child B to her case until [REDACTED]. Petitioner indicated that the probation officer also sent her caseworker verification that Child B was a member of Petitioner's household.

Moreover, Petitioner testified that she left a voicemail for her caseworker in [REDACTED], reporting that Child A was a member of her household, but the caseworker did not respond. Petitioner indicated that the probation officer also sent her

caseworker informing the Department that Child A was a member of Petitioner's household.

In response, the Department testified that for [REDACTED], Petitioner's group size was two, Petitioner and Child C. For [REDACTED], the Department testified that Petitioner's group size was three, Petitioner, Child B, and Child C. For [REDACTED], Petitioner's group size was properly determined to be four.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2016), p. 11. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 12. These include, but are not limited to, changes in persons in the home. BAM 105, p. 12.

Based on the foregoing information and evidence, the undersigned finds that the Department did not properly process Petitioner's reported change in group compositions in accordance with Department policy. See BAM 105, p. 11, and BAM 220 (October 2016 and January 2017), pp. 6-10, (case actions). The undersigned finds Petitioner's testimony credible that she timely reported to the Department that Child B was a member of her household as of [REDACTED], and Child A was a member of her household as of [REDACTED]. The undersigned determined that the Department did not process the reported changes timely. For example, Petitioner's FAP group size was two for [REDACTED], [REDACTED], Petitioner and Child C. However, because the undersigned finds that she timely reported to the Department that Child B was a member of her household as of [REDACTED], her group size should have been three for [REDACTED] (Petitioner, Child B, and Child C). See BEM 212 (October 2015 and January 2017), p. 9, (member adds/deletes). Now, Petitioner has to understand that she is a recipient of multiple program benefits and each benefit program has its own member add policy. As such, her group composition may vary by program benefits; thus, the undersigned is ordering the Department to process the group composition with an effective reporting date of [REDACTED] for Child B and [REDACTED] for Child A.

FAP closure

Petitioner also disputed was the closure of her FAP benefits effective [REDACTED]. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, because her net income exceeds the limits. [Exhibit B, pp. 6-12.]

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. See BEM 556 (July 2013), p. 5. Moreover, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1. RFT 250 indicates that the monthly net income (100%) limit for a group size of four is [REDACTED]. RFT 250 (October 2016), p. 1. Thus, it has to be determined if Petitioner's income exceeds the net income limit of \$ [REDACTED]

In order to show how Petitioner's net income exceeded the limits, the Department would have to provide the undersigned a budget to review for the benefit month of [REDACTED]. However, the Department failed to present a budget for the evidence record. As such, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed her FAP benefits effective [REDACTED]. The Department is ordered to reinstate Petitioner's FAP benefits effective [REDACTED] and redetermine her eligibility in accordance with Department policy. BEM 550, p. 1; BEM 556, p. 6; and RFT 250, p. 1.

MA deductible

In this case, Petitioner argued that the deductible was excessive. As such, the undersigned addressed whether the Department properly calculated Petitioner's G2C deductible effective [REDACTED]. The Department presented the [REDACTED] budget for review. [Exhibit A, p. 16.]

G2C is a Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for Group 2 Medicaid in BEM 211. BEM 135, p. 2. In the present case, the Department is determining Petitioner's eligibility; therefore, the Department will use her income in determining eligibility. See BEM 211 (January 2016), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (April 2017), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for Petitioner. BEM 536, p. 1.

The first step in determining her budgetable income, the Department has to calculate her countable earned income. BEM 536, p. 1. The Department indicated that it calculated her MA earned income to be \$ [REDACTED] from the submitted pay stubs, which she did not dispute. [Exhibit A, pp. 112-15.]

The second step in determining her budgetable income, the Department deducts \$ [REDACTED] from her countable earnings, resulting in an income of \$ [REDACTED]

The third step is not applicable in this case; thus the undersigned moves to step four. For step four, the Department will deduct an amount for dependent care expenses

arising from employment from the remaining earnings of the parent in the fiscal group who pays for the care. BEM 536, p. 2. The Department computes the dependent care deduction separately for each fiscal group member who pays for dependent care. BEM 536, p. 2. The deduction is \$ [REDACTED] per month for each person receiving care, unless one of the rules in BEM 536 prohibits a deduction. See BEM 536, p. 2, (rules that apply to be eligible for the dependent care deduction). At first glance, it appeared that Petitioner is possibly eligible for the dependent care deduction. Petitioner testified that she was responsible for some of Child C's dependent care expenses because the Department would only pay some of Child C's benefits. The undersigned finds this statement credible because the Department provided documentation showing that Child C was approved for [REDACTED] authorized hours in CDC benefits per biweekly period. [Exhibit B, pp. 6-46.] The Department was unable to establish in its testimony or evidence if it applied the dependent care deduction to the calculation of her income. This is important to know because if Petitioner is eligible for this deduction, then her monthly deductible would decrease. As such, the undersigned finds that the Department failed to satisfy its burden of showing that it properly calculated the G2C deductible in accordance with Department policy. See BEM 536, p. 2. The Department is ordered to recalculate Petitioner's G2C budget and determine if she is eligible for the dependent care deduction.

CDC benefits

Petitioner also disputed her CDC coverage for Child B and Child C.

For Child B, Petitioner testified that once Child B was back in her home in [REDACTED], she was not provided CDC coverage for Child B until [REDACTED]. Thus, Petitioner was seeking CDC benefits during the periods she did not receive coverage. As stated above, the undersigned found Petitioner's testimony credible that she timely reported Child B in the household as of [REDACTED]. In attempt to show the periods in which Child B did receive CDC coverage, the Department presented multiple documents. For example, the Notice of Case Action dated [REDACTED], showed that Child B was approved for CDC coverage, with 90 authorized hours, effective [REDACTED]. [Exhibit B, pp. 6-7.] However, the document also stated that Child B was denied CDC coverage from [REDACTED]. [Exhibit B, p. 6.] Based on this document, Petitioner's statement of not receiving coverage for Child B right away was partially accurate. The document showed that Child B did not begin receiving coverage until [REDACTED], despite the undersigned finding that Child B was a member of the household as of [REDACTED]. The undersigned attempted to review Child B's CDC coverage; however, there were multiple Notices of Case Action that were generated during the periods of [REDACTED] that addressed Child B's CDC coverage, in which the undersigned could not determine if Child B's CDC coverage was properly determined. [Exhibit B, pp. 13-46.] As such, the undersigned finds that the Department failed to establish its burden of showing that it properly determined Child B's CDC eligibility as of [REDACTED]. The Department is ordered to redetermine Child B's CDC coverage as of [REDACTED], the date she reported Child B in the household. See BEM 205 (July 2016), pp. 1-3;

BEM 703 (January 2017 and April 2017), pp. 1-16; and RFT 270 (January 2017 and April 2017), pp. 1-4.

For Child C, Petitioner testified that the Department decreased Child C's CDC coverage beginning [REDACTED]. On or about [REDACTED], Petitioner testified that she began being responsible for parts of Child C's child care expenses; thus, she was disputing this decrease in coverage. Again, though, when attempting to verify Child C's coverage, there were multiple documents that addressed Child C's CDC coverage during the period of [REDACTED]. [Exhibit B, pp. 1-46.] The undersigned attempted to review her CDC coverage in these documents; however, the undersigned could not determine if Child C's CDC coverage was properly determined. [Exhibit B, pp. 13-46.] As such, the undersigned finds that the Department failed to establish its burden of showing that it properly determined Child C's CDC eligibility effective [REDACTED], in accordance with Department policy. The Department is ordered to redetermine Child C's CDC coverage effective [REDACTED], ongoing. See BEM 205, pp. 1-3; BEM 703, pp. 1-16; and RFT 270, pp. 1-4.

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) the Department did not properly process Petitioner's reported change in group composition for Child A and Child B; (ii) the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED]; (iii) the Department failed to satisfy its burden of showing that it properly calculated Petitioner's G2C deductible effective [REDACTED], in accordance with Department policy; (iv) the Department failed to satisfy its burden of showing that it properly determined Child B's CDC coverage as of [REDACTED], the date she reported Child B in the household; and (v) the Department failed to satisfy its burden of showing that it properly determined Child C's CDC coverage effective [REDACTED], ongoing.


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. Process Petitioner's reported change that Child B was a member of her household as of [REDACTED], in accordance with Department policy;
2. Process Petitioner's reported change that Child A was a member of her household as of [REDACTED];

3. Redetermine Child B's CDC coverage as of [REDACTED], the date Petitioner reported Child B in the household, in accordance with Department policy;
4. Issue supplements to Petitioner for any CDC benefits she was eligible to receive for Child B in accordance with Department policy, ongoing;
5. Reinstate Petitioner's FAP case as of [REDACTED];
6. Redetermine Petitioner's FAP eligibility for [REDACTED], ongoing;
7. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing;
8. Recalculate Petitioner's G2C deductible for [REDACTED], ongoing;
9. Determine if Petitioner is eligible for the dependent care deduction when calculating her G2C deductible in accordance with Department policy;
10. Issue supplements to Petitioner for any G2C benefits she was eligible to receive but did not from [REDACTED], ongoing;
11. Redetermine Child C's CDC coverage effective [REDACTED];
12. Issue supplements to Petitioner for any CDC benefits she was eligible to receive for Child C effective [REDACTED], in accordance with Department policy, ongoing; and
13. Notify Petitioner of its decision.

EJF/jaf



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

