



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 24, 2017
MAHS Docket No.: 17-012383
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 19, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Serlibrity Good, Assistance Payments Worker.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits?

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 was also an ongoing Medical Assistance (MA) benefit recipient. Petitioner was receiving MA coverage subject to a deductible.
3. In June and July 2017, Petitioner submitted medical bills to meet her monthly deductible for MA benefits.
4. The Department recalculated Petitioner's FAP benefits as she also receives a medical deduction because she is a Senior/Disabled/Veteran (SDV) group member.

5. On August 1, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner her benefits were increased to \$194 per month effective September 1, 2017, ongoing.
6. On August 24, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner her benefits were decreased to \$91 per month effective October 1, 2017, ongoing.
7. On September 11, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner disputed the Department's decision to recalculate her FAP benefits. Petitioner had completed a redetermination in May 2017. Petitioner submitted verification of all of her current ongoing and one-time-only medical expenses. The Department averaged all of Petitioner's one-time-only expenses over the benefit period and added the amounts to her ongoing expenses. The Department determined she was entitled to a \$700 medical deduction in the calculation of her net income for FAP purposes. Petitioner was informed her FAP benefit amount would be \$158 per month effective June 1, 2017, ongoing (Exhibit E).

In June and July 2017, Petitioner submitted medical bills to meet her monthly deductible for her MA case. Petitioner did not intend to have the medical bills applied to her FAP benefit case. However, the Department used the medical bills to recalculate Petitioner's medical deduction, which resulted in the recalculation of Petitioner's FAP benefits.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554 (January 2017), p. 1. Generally, medical expenses are verified at application and redetermination. BEM 554, p. 12. However, a FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554, p. 9. The Department processes the changes only if they are one of the following: (i) voluntarily reported and

verified during the benefit period such as expenses reported and verified for MA deductible; or (ii) reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554, p. 9. 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. BEM 554, p. 9.

Petitioner voluntarily reported her medical expenses in order to meet her MA deductible. Therefore, the Department properly chose to redetermine Petitioner's FAP benefit amount.

The Department presented budgets for Petitioner's FAP benefits for the months of September 2017 and October 2017. In September 2017, Petitioner's medical deduction was calculated to be \$1,836. The Department did not provide any testimony as to how Petitioner's September 2017 medical deduction was calculated or what medical bills were considered. Therefore, the Department failed to establish that it followed policy when calculating Petitioner's September 2017 benefit amount.

In October 2017, Petitioner received a medical deduction of \$545. The Department testified the medical deduction comprised of Petitioner's ongoing medical expenses and one-time-only medical expenses that had been previously averaged when calculating Petitioner's June benefits. The Department was unable to explain why Petitioner's medical deduction had previously been calculated to be \$700, but was reduced to \$545. If Petitioner's previous medical deduction was calculated to be \$700, which included ongoing expenses and one-time-only expenses that were averaged over the benefit period, it would stand to reason Petitioner's medical deduction would remain at \$700 or would be a higher amount. The Department did not provide any of the medical bills that it used to calculate the medical deduction. Therefore, the Department failed to establish that it properly calculated Petitioner's medical deduction, and as a result, her FAP benefit amount for October 1, 2017, ongoing.

DECISION AND ORDER

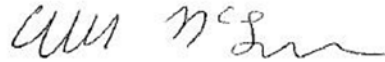
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit amount.

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. Redetermine Petitioner's FAP eligibility for September 1, 2017, ongoing;

2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from September 1, 2017, ongoing; and
3. Notify Petitioner of its FAP decision in writing.



EM/

Ellen McLemore
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

MDHHS-Oakland-3-Hearings

Petitioner



M Holden
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MAHS