



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 22, 2018
MAHS Docket No.: 18-000430
Agency [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on February 14, 2018, from [REDACTED] Michigan. Petitioner represented himself. The Department was represented by [REDACTED] and [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

Does Petitioner's request for a hearing raise an issue that can be settled by the Michigan Administrative Hearing System (MAHS) with respect to Medical Assistance (MA) and State Emergency Relief (SER) 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 is an ongoing recipient of Medical Assistance (MA) under the MA-SSI category. Exhibit A, p 1.
2. On December 20, 2016, the Department denied Petitioner's application for State Emergency Relief (SER) benefits. Exhibit A, pp 2-4.
3. On December 19, 2017, the Department received Petitioner's Change Report (DHS-2240) where he reported that his nephew had moved into his home. Exhibit A, pp 5-6.

4. Petitioner is the guardian of his nephew and has power of attorney over his nephew's affairs. Exhibit A, p 7.
5. On January 5, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of an account that is accessible by a debit card by January 16, 2018. Exhibit A, pp 8-9.
6. On January 5, 2018, the Department received a balance statement for his debit card account. Exhibit A, pp 10-14.
7. Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED]. Exhibit A, pp 18-23.
8. Petitioner has a \$ [REDACTED] monthly housing obligation and is responsible for heating costs separate from his monthly housing expenses.
9. On January 9, 2018, the Department notified Petitioner that effective February 1, 2018, his Food Assistance Program (FAP) benefit group would increase to two people and this monthly allotment of benefits would increase to \$ [REDACTED]. Exhibit A, pp 15-17.
10. On January 9, 2018, the Department received Petitioner's request for a hearing.

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 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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.

- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner is an ongoing MA recipient under the MA-SSI category. This category of assistance is often referred to as “full Medicaid” since there is no monthly deductible. Petitioner has received this benefit since at least May 1, 2016.

Petitioner testified that his nephew has been denied MA benefits.

No evidence was presented on the record that the Department was aware that the nephew would be living with Petitioner until after the Change Report (DHS-2240) was received by the Department on December 19, 2017. The Department’s representative testified that the nephew was receiving MA benefits under another case when he moved to Petitioner’s household. There has been no negative action with respect to the nephew’s eligibility for MA before January 9, 2018, when the request for a hearing was received.

Petitioner failed to identify a Department action with respect to MA benefits that entitles him to a hearing for which the Michigan Administrative Hearing System (MAHS) can issue a decision.

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.

On December 20, 2016, the Department notified Petitioner that his application for SER benefits had been denied. Petitioner’s hearing request was received by the Department on January 9, 2018. No evidence was presented on the record that there has been any subsequent action with respect to SER benefits. Petitioner is not entitled to a hearing with respect to SER benefits because his hearing request is not timely with respect to the Department’s action.

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.

On December 19, 2017, the Department received Petitioner's Change Report (DHS-2240) where he reported that his nephew had moved into his home. This caused the Department to redetermine Petitioner's eligibility for ongoing FAP benefits.

Petitioner receives a total monthly income of \$ [REDACTED] which consists of his SSI benefits in the gross monthly amount of \$ [REDACTED] and his SSP benefits in the gross monthly amount of \$ [REDACTED]. The monthly SSP benefit was determined by dividing this quarterly issued benefit by 3 months. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his totaling monthly income by the \$ [REDACTED] standard deduction.

Petitioner is entitled to a \$ [REDACTED] deduction for excess shelter expenses. This deduction was determined by adding his \$ [REDACTED] monthly housing expense to the standard \$ [REDACTED] heat and utility deduction, then subtracting 50% of his adjusted gross income.

Petitioner's net income of \$ [REDACTED] was determined by reducing his adjusted gross income by his excess shelter deduction. A group of two with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include the number of persons in the home. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), pp 1-20.

The Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. Changes which results in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date of the change was reported. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (January 1, 2018), p 7.

In this case, the Department received Petitioner's Change Report on December 19, 2017, along with verification that he held power of attorney over his nephew's affairs. No evidence was entered into the hearing record that additional verification was necessary to confirm that the nephew had moved into Petitioner's household.

However, the Department failed to act on a change within 10 days of becoming aware of the change and failed to increase Petitioner's benefits for the first allotment issued 10 days after the date the change was reported as directed by BAM 220. Therefore, Petitioner's is entitled to a FAP supplement for January of 2018.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for the Food Assistance Program (FAP) effective January 1, 2018.

DECISION AND ORDER

Petitioner's hearing request is **DISMISSED** for lack of jurisdiction with respect to Medical Assistance (MA) and State Emergency Relief (SER) benefits only.

The Department's decision is **REVERSED** with respect to the Food Assistance Program (FAP).

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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits in accordance with Department policy effective January 1, 2018, and issue Petitioner any retroactive benefits he may be eligible to receive, if any.

IT IS SO ORDERED.

KS/nr



Kevin Scully
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]