



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 23, 2018  
MAHS Docket No.: 18-001331  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 March 14, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Worker.

**ISSUE**

Did the Department properly calculate the Petitioner's medical expenses when calculating Food Assistance (FAP)?

Did the Department properly exclude the Petitioner's homeowner's insurance expense when calculating the Food Assistance (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. The Petitioner submitted medical bills to the Department on December 8, 2017 to be applied as medical expenses to her FAP budget. Exhibit A
2. The Petitioner is over [REDACTED] years of age and disabled and thus is an [REDACTED] group for FAP benefit purposes. As such she is entitled to claim housing expenses.

3. The medical bills submitted by Petitioner included medical bills for August 2017 and other months,
4. The Department issued a Benefit Notice on February 13, 2018 advising the Petitioner that her FAP benefits were [REDACTED] for January 1, 2018.
5. The Petitioner pays \$ [REDACTED] monthly for property insurance for her dwelling which is a cooperative.
6. The benefits for January 2018 were based on unearned income of \$ [REDACTED] medical expenses of [REDACTED] housing cost of [REDACTED] and a Heat and Utility allowance. Exhibit A, p. 16
7. The Department did not process medical bill expenses for August 2017 in the amount of [REDACTED]
8. The Petitioner requested a timely hearing on January 31, 2018 protesting the Department's failure to process her medical bills.

### **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, the Petitioner sought review of several issues which included calculation and inclusion of medical expenses submitted by the Petitioner to the Department on December 8, 2017 and removal of homeowner's insurance costs from her shelter expense because the Department believed she rented her home. The Petitioner is disabled and receives RSDI and has medical assistance benefits provided by the Department subject to a spenddown. At the hearing the Petitioner testified that she had a medical assistance spenddown of \$700 per month.

The Petitioner testified that the Department orally advised the Petitioner in November 2017 that she no longer had a 24-month benefit period. The significance of this change affects how one time only medical expenses can be applied. In general, FAP expenses

including medical expenses must be processed and verified by the Department and are to be included as an expense as follows:

Expenses are used from the same calendar month as the month for which benefits are being determined.

**Example:** June expenses are used to determine June's benefits.

Expenses remain unchanged until the FAP group reports a change; see Bridges Administrative Manual (BAM) 220, Change Processing.

In this case, the Petitioner submitted a change in medical expense and thus the bills had to be processed in accordance with change processing policy found in BAM 220.

From the outset, the Department to the extent it declined to process bills from August 2017 because the bills were not submitted within 90 days of the service, was incorrect. BEM 545 and its requirement regarding old medical bills does not apply to determining medical expenses for FAP. See BEM 545 (January 2018), p. 11-12. Any eligible medical bills submitted as a medical expense for FAP to the extent they are a change must be processed and included in the next FAP allotment which in this case would be the January 2018 FAP benefits unless the bill is overdue. See BEM 544. Thus, the Department must review and process the August 2017 medical expenses and include all eligible expenses in the January 2018 FAP medical expenses and if applicable issue a supplement to Petitioner for FAP benefits if the medical bills are eligible allowable medical expenses and meet the other requirements provided in applicable policy BEM 554 (January 2018), pps 8-12.

BAM 220 further provides that the Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change:

**Benefit Increases:** Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220 (January 2018) p.7.

### **FAP Only**

For non-income changes, complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. See BEM 212, Food Assistance Program Group Composition, and BEM 550, FAP Income Budgeting, for

policy regarding effective dates for member adds. The benefit month **cannot** be earlier than the month of the change. BAM 220, p. 10

Thus, based upon Department policy, the Department correctly included the medical expenses submitted to the Department on December 8, 2017 to affect FAP benefits for the month of January 2018 even though the manual Notice of Benefits for the January 2018 benefits was sent by a Benefit Notice dated February 13, 2018. Exhibit A, p. 16.

The Department testified that it included medical expenses for January 2018 which included the expense for Medicare Part B premium, [REDACTED] for a health insurance premium paid by Petitioner for [REDACTED] for a total of [REDACTED]. In addition, it also testified that the total medical expenses based upon the bills submitted and included when calculating the FAP benefits totaled [REDACTED] January 2018 which sum included the health insurance premiums and a [REDACTED] deduction as required by Department policy. The Department did not present the medical bills that it reviewed or a list of the bills which were approved, however it testified that it included medical expenses of [REDACTED] based upon the medical bills and expenses presented. The medical expenses and the insurance costs when totaled is [REDACTED]. Once the [REDACTED] is deducted as required by policy, the medical expense total is [REDACTED]. This discrepancy was not explained by the Department. Given this discrepancy, the Department did not meet its burden of proof to demonstrate that the medical expense used for January 2018 was correct and in accordance with Department policy.

The Petitioner also questioned why her 24-month FAP benefit period purportedly was no longer applicable to her. Petitioner testified that she was advised orally of the change by the Department in November 2017. The effect of the change does not allow her to apply one time only medical expenses choosing to budget a one-time medical expense for one month or average it over the balance of the benefit period. Since no notice was issued it was unclear when the change was effective. See BEM 554, p. 9-10

Bridges assigns a 24-month benefit period for groups in which **all** group members are senior and/or disabled **and** the group does not have any income or its **only** source of income is SSI and/or RSDI benefits.

**Note:** The annual mass update in RSDI and SSI benefit amounts does **not** affect this certification.

If a group reports a change in circumstances that affects its benefit period, such as a non-disabled/non-senior person joining the household, Bridges does all of the following:

- Shortens the benefit period according to policy in BAM 220.
- Schedules a redetermination.
- Sets a new (12 months or less) benefit period consistent with the group's circumstances.

Conduct a mid-certification contact with the FAP group once each year. The RD-093, Redetermination Report - Worker Listing, serves as notification that contact is due; see BAM 210.

#### 12-Month Benefit Period

Bridges assigns a maximum 12 months for FAP groups that do **not** qualify for a 24-month benefit period or that do not require a shorter benefit period. For example:

- FIP groups with no earnings.
- Group has unearned income such as unemployment compensation benefit (UCB), child support, etc.

**Note:** FAP groups with countable earnings must have a 12-month benefit period. Conduct a mid-certification contact with the FAP group once each year. A notice will be sent when a contact is due on the RD-093, Redetermination Report - Worker Listing; see BAM 210.

To the extent the Petitioner is working in 2018 which was confirmed by Petitioner's testimony at the hearing, she is not allowed a 24-month benefit period. The Department presented no evidence regarding whether the Petitioner was working in 2017 or her benefit period at that time and thus it cannot be determined based upon the evidence presented whether the 24-month benefit period for 2017 was correctly changed. The Department must review this issue as the Department did not meet its burden in this regard. However, the Petitioner is advised that if she was working in 2017 and had earned income she was not entitled to a 24-month benefit period based on BAM115 cited above.

Finally, the Department apparently removed a housing shelter expense paid by Petitioner for homeowner's insurance for her ownership of her apartment unit in a cooperative where she lives. The Department should have verified this expense before it removed the expense. While it is understandable that the Department was faced with a discrepancy due to the verification for rent previously provided by the Petitioner to verify her housing expense, the documentation provided to the Department regarding the insurance clearly indicated that it was homeowner's insurance on a dwelling which is an allowable shelter expense and was not renter's insurance which is not an allowable shelter expense. The Petitioner testified that the insurance expense was submitted on December 8, 2017 and is [REDACTED] a month. The Petitioner further credibly testified that she lives in a cooperative and pays a fee to cover the costs of her share. Exhibit A, p. 7-11.

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the

contents of the structure, for example, furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed. BEM 554, p. 14.

The Department must under these circumstance seek a verification of Petitioner's ownership interest in the cooperative which it did not do.

Finally, at the hearing the Petitioner was upset that no Notice of Case Action was sent to her. The Department conceded that Bridges due to a technical problem did not generate a Notice of Case Action as it is supposed to do, however, the Department correctly issued a Benefit Notice which is a manual Notice of Case Action when it discovered the error and the applicable amounts used to determine the Petitioner's January 2018 FAP benefits were included in the Notice. Exhibit A, pps. 16-17. However, because the Department is now aware that the Bridges system is not issuing automatic Notices of Case Action, the Department must issue all manual notices to meet the timeliness standards until the problem is corrected by the Department.

In this case, it is further presumed that the medical bills did not require verification as the Department presented no evidence that the bills submitted required verification based on the submission made by the Petitioner.

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 calculated the Petitioner's FAP medical expenses for the January 2018 FAP benefits.

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 failed to verify the Petitioner's ownership of her cooperative apartment prior to removing the shelter expense for homeowner's insurance based upon a discrepancy.

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 meet its burden of proof that it acted in accordance with Department policy with respect to changing and providing notice of a change in Petitioner's 24-month benefit period for 2017.

**DECISION AND ORDER**

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. The Department must recalculate the FAP benefits for January 2018 and include, review and process any eligible medical bills covering August 2017.
2. The Department shall further reprocess the January 2018 medical expense to resolve the discrepancy in the total FAP medical expenses applied (without August bills) as explained in the Hearing Decision, (\$643 and \$667.57).
3. The Department shall issue a Notice of Case Action regarding any change, if any, in removing the 24-month benefit period for 2017 in accordance with Department policy.
4. The Department shall seek verification of the Petitioner's ownership interest in the cooperative where she lives and redetermine its exclusion of the ongoing homeowner's insurance monthly cost.
5. If the Department determines that the FAP medical expenses are increased due to the August medical bills and the discrepancy regarding total FAP medical expenses for January 2018 previously determined, and also determines based upon verification of homeownership that homeowners insurance is a valid shelter expense, the Department shall issue a FAP supplement for January 2018 FAP benefits, if any such supplement is due to Petitioner for FAP benefits she was otherwise entitled to receive in accordance with Department policy.

LF/tm



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**Lynn M. Ferris**  
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]  
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