



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.: 18-001332
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 process medical bills for meeting the Petitioner's December 2017 Medical Assistance deductible?

Did the Department process the Petitioner's medical bills submitted on January 8, 2018 and include a medical expense for those bills in Petitioner's February 2018 Food Assistance (FAP) budget?

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 was an ongoing FAP recipient and is disabled and receives RSDI from the Social Security Administration.
2. The Petitioner provided the Department medical expenses on January 10, 2018 for processing covering expenses for the month of December 2017. The Petitioner has an MA deductible of [REDACTED] monthly and the bills were to be reviewed for

purposes of meeting her MA deductible. Exhibit A, p. 9-29; see also Exhibit A, p. 26 summary.

3. The medical bills were also submitted by Petitioner as a medical expense to be applied to the Petitioner's FAP benefit calculation for the applicable month.
4. The Department processed the Petitioner's medical bills and found that she had met her MA deductible of [REDACTED] for December 2017 and found her eligible for full Medicaid effective December 5, 2017. Exhibit A, p. 30.
5. On January 6, 2018, the Petitioner timely submitted a Change Report advising the Department that she began employment effective January 2, 2018. Petitioner reported that she is paid bi-weekly, is paid \$[REDACTED]/hour and works [REDACTED] hours per week. No pay stubs were provided as she had not received any pay at the time of reporting the change. Exhibit A, p. 7
6. At the time of the hearing, the Department had requested verification of Petitioner's earnings which were due February 16, 2018. The Department pended FAP benefits for February 2018 until it received proof of income.
7. The Department had processed the Petitioner's MA bills and determined that she had met her MA deductible for December 2017 and approved [REDACTED] in medical expenses. Exhibit A, p. 1. The Department did not present evidence that it provided a Notice of Case Action to Petitioner that her MA deductible was met.
8. The Petitioner requested a hearing received on January 30, 2018 protesting the Department's actions due to failure to apply (process the December medical bills to meet her MA deductible for December 2017, and failed to process the medical bills as a medical expense to be applied for February 2018 FAP budgeting.

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.

In this case, the Petitioner presented two issues. The first was whether the Department processed Petitioner's medical bills for determining whether she met her MA deductible for December 2017. The second issue is whether the Department correctly applied the medical expenses presented by the Petitioner on January 10, 2018 when determining the Petitioner's MA eligibility for February 2018.

The Department testified at the hearing and provided evidence that it processed the Petitioner's medical bills submitted on January 10, 2018. The Department must act on a change reported for MA within 15 workdays after becoming aware of the change. In this case, the Department determined that the Petitioner had met her MA deductible for December 2017 based upon the eligibility summary presented which established that the MA deductible was met as of December 5, 2017 and that Petitioner had full coverage Medicaid as of that date. Exhibit A, p. 30. There is no evidence that a Notice of Case Action was issued to Petitioner notifying her of her MA eligibility for December 2017. The Department is required to notify the Petitioner when her deductible is met and did not do so.

Based upon this evidence the Petitioner's hearing request regarding the failure to process medical bills no longer requires further action by the Department except to issue a Notice of Case Action advising the Petitioner that her MA deductible is met for December 2017. The Department has been issuing manual notices in Petitioner's case due to the bridges system not sending automatic notices. The Department has not addressed this problem as of the hearing.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BEM 220 (January 2018), p. 2

FAP benefits for February 2018

The Department is required to act on a change reported other than by tape match within 10 days of becoming aware of the change. In this case, the Petitioner reported new employment and that she would be receiving additional income in the form of earned income from wages. BAM 220 (January 2018), p. 7. This type of change, where income for the group is increased will likely result in a FAP benefit decrease or possibly ineligibility. In these situations, the Department must:

Benefit Decreases: If the reported change will decrease the benefits or make the household ineligible, action must be taken and a notice issued to the client within 10 days of the reported change.

In this case, the Department was required to verify the employment information because the Petitioner had not received any wages as of the reported change; thus the Department must determine the new monthly earned income. The Department had 10 days to request verification of income so it could determine ongoing eligibility. The Department did not act within 10 days to seek verification and waited until February 6, 2018, thus the verification was not due until February 16, 2018. No explanation of the failure to act promptly was given. The referred to verification checklist was not presented. The Department testified that it pended the February 2018 FAP benefits and cited no basis to do so other than pending receipt of verification. At this point, because the Department did not act timely in seeking verification, the Department must determine February 2018 benefits based upon Petitioner's February 2018 unearned income and the [REDACTED] in medical expenses and issue FAP benefits for February 2018. Once the verification of income from employment is received, the Department must process the change and provide notice to the Petitioner of its determination and at the soonest can only affect March 2018 FAP benefits.

For non-income changes, such as the medical expenses in this case, the Department is to complete the FAP eligibility determination and required case action in time to affect the benefit month that occurs 10 days after the change is reported. The following example explains how the medical expenses in this case should be applied for February 2018:

A \$30 shelter increase reported on May 15th would increase the household's June allotment. If the same increase were reported on May 28, the household's allotment would have to be increased **by** July. (The 10th day following May 28 would be June 7.) However, the first month we **can** affect is June, provided the action on the shelter change is completed by May 31st. BAM 220, p. 10

In addition, the Petitioner testified that the Department told her that her medical benefits she submitted for December 2017 could not be counted for both meeting a medical deductible and as a medical expense for FAP. This is incorrect. The processing of medical bills to meet a deductible is entirely different than determining medical expenses to be included in a FAP budget because they are two different programs. BEM 554 provides that if a FAP group voluntarily reports changes regarding medical expenses during the benefit period the Department is required to process the change only if they are one of the following: voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible and/or reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554 (August 2017), p. 9. As

the medical bills were voluntarily reported and verified and were verified for MA deductible, they must be processed and included in the February 2018 FAP benefit calculation as a medical expense.

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 in January 2018 covering December bills and thus the bills had to be processed in accordance with change processing policy found in BAM 220.

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. See also BEM 505 (October 12017), p.10.

Due to no evidence that the February 2018 FAP benefits were issued, the Department must process the February FAP benefits and issue Notice of Case Action if required due to the change in medical expenses reported and which must be included in the FAP calculation.

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 acted in accordance with Department policy when it processed the Petitioner medical bills and determined her MA deductible for December 2017.

The Department did not meet its burden of proof to demonstrate that a Notice of Case Action was issued to advise the Petitioner that the December 2017 MA deductible was met.

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 pended the Petitioner's FAP benefits for February 2018.

DECISION AND ORDER

Accordingly, the Department's decision is:

AFFIRMED IN PART with respect to the processing of the Petitioner's medical bills for December 2017 and

REVERSED IN PART with respect to the Department's pending of Petitioner's February 2018 FAP benefits based upon a reported change of starting employment.

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 shall issue a Notice of Case Action to the Petitioner advising her that her MA deductible was met for December 2017 and that she has full Medicaid eligibility for that month.
2. The Department shall process the Petitioner's FAP benefits for February 2018 ongoing and include the medical bill expense submitted by Petitioner on January 10, 2018 as well as ongoing unearned income.
3. The Department, if Petitioner is determined otherwise eligible for FAP benefits, shall issue a FAP supplement for any FAP benefits the Petitioner is eligible to receive in accordance with Department policy.
4. The Department shall provide Petitioner a Notice of Case Action advising her of its determination of the February 2018 FAP benefit amount.

LF/tm



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

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