



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 26, 2018
MAHS Docket No.: 18-001448
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 21, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

1. Did the Department properly deny Petitioner's October 17, 2017, application for State Emergency Relief (SER) assistance?
2. Did the Department properly determine Petitioner's and her sons' eligibility for Medical Assistance (MA) program benefits?
3. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective February 1, 2018?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On October 10, 2017, Petitioner submitted an application for SER seeking assistance with housing relocation costs in the amount of \$ [REDACTED] of which \$ [REDACTED] was attributable to the security deposit and \$ [REDACTED] was attributable to the first month's rent.
2. On October 26, 2017, the Department issued a SER Decision Notice holding that Petitioner had a total income/asset copayment of \$ [REDACTED] and that she was denied assistance because her group does not meet the program requirements.

3. On November 3, 2017, Petitioner made two payments to Urban Homes for the property located at [REDACTED] in the amounts of \$ [REDACTED] and \$ [REDACTED]
4. On December 4, 2017, the Department issued a Redetermination due back by January 3, 2018, for the FAP and MA programs.
5. On January 2, 2018, Petitioner returned the completed Redetermination to the Department.
6. On January 4, 2018, the Department issued a Health Care Coverage Decision Notice (HCCDN) holding that Petitioner's sons were eligible for full coverage Medicaid benefits and that Petitioner was eligible for Group 2 (G2)-Family Independence Program (FIP)-Related Adult Medicaid coverage with a deductible of \$ [REDACTED] per month.
7. Effective February 1, 2018, Petitioner's FAP case was closed due to excess income.
8. On February 8, 2018, the Department received Petitioner's request for hearing disputing her denial of SER, closure of her FAP case, and determination of MA eligibility for herself and her sons.

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).

State Emergency Relief

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.

Clients have 90 calendar days from the date of the written Notice of Case Action to request a hearing by submitting their request in writing to the Department. BAM 600 (January 2018), p. 6. In this case, Petitioner's request for hearing regarding SER was more than 90 days after the issuance of the SER Decision Notice. Therefore, her request was not timely; the Michigan Administrative Hearing System does not have jurisdiction to address this issue. The SER portion of Petitioner's request for hearing is dismissed. Petitioner's request for hearing as it related to the decisions of the Department regarding her FAP and MA benefits was timely and is considered below.

Food Assistance Program & Medical Assistance

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 Department closed Petitioner's FAP case based upon excess income. After a review of the FAP EDG Net Income Budget, it would appear that the Department is alleging that Petitioner was over not only the net income limit, but also the gross income limit. RFT 250 (October 2017), p. 1. However, the Department did not provide a Notice of Case Action for the hearing nor does the hearing summary explicitly state which was the cause for Petitioner's FAP case closure.

The Department determined Petitioner's eligibility for MA coverage that she was eligible for G2-FIP related MA coverage with a deductible of \$ [REDACTED] based upon an annual income of \$ [REDACTED]. Her sons were provided full coverage MA benefits.

The Department provided no evidence of how it calculated Petitioner's monthly or annual income such as pay stubs, a work number report, or verification of employment. The Department only provided the total amounts for the monthly and annual income, and a conclusory statement indicating that a Work Number Report was relied upon in making the determinations.

FAP cases require consideration of all countable earned and unearned income available to the client in order to determine a client's eligibility for program benefits; group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received

weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

MA cases require consideration of income following the policies of BEM 500 Income Overview and BEM 530 MA Income Budgeting to determine countable earned income. BEM 536 (October 2017), p. 1.

Based upon the evidence presented, it is impossible to determine whether the Department properly calculated Petitioner's monthly income for FAP purposes or annual income for MA purposes.

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 closed Petitioner's FAP case and determined Petitioner's MA eligibility.

DECISION AND ORDER

The portion of the Petitioner's request for hearing related to SER is DISMISSED.

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. Reprocess Petitioner's FAP and MA Redetermination submitted January 2, 2018;
2. If Petitioner is eligible for FAP benefits, issue supplements beginning February 1, 2018 ongoing; and
3. If Petitioner remains eligible for MA coverage, and if coverage is greater than previously provided, issue supplements on Petitioner's behalf beginning February 2018 ongoing; and
4. Notify Petitioner in writing of its decision.



AM/

Amanda M. T. Marler
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

