



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 18, 2018
MAHS Docket Nos.: 18-003007; 18-003828
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 May 16, 2018, from Lansing, Michigan. Petitioner represented himself for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

In the present case, Petitioner filed two separate hearing requests concerning the Department's actions related to his Food Assistance Program (FAP), Medical Assistance (MA), and State Emergency Relief (SER) benefits. As a result, two separate administrative hearings were scheduled. The undersigned Administrative Law Judge (ALJ) consolidated both hearings into one hearing and issued this one hearing decision to address both Docket Nos.: 18-003007; and 18-003828.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

Did the Department properly calculate Petitioner's Medical Assistance (MA) - Group 2 Caretaker Relatives (G2C) coverage with a monthly \$ [REDACTED] deductible for [REDACTED], ongoing?

Did the Department properly deny Petitioner's SER application for property taxes dated [REDACTED]?

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 recipient of FAP benefits.
2. On [REDACTED], the Department sent Petitioner a redetermination (DHS-1010) to redetermine his eligibility for FAP benefits, which was due back by [REDACTED]. [Exhibit A, pp. 34-41 (Reg. No. 18-003828).]
3. On [REDACTED] the Department also sent Petitioner a Redetermination Telephone Interview (DHS-574) notice informing him that he had a telephone interview scheduled for [REDACTED]. [Exhibit A, p. 33 (Reg. No. 18-003828).]
4. The Department did not receive the redetermination by the [REDACTED], due date.
5. On [REDACTED], the Department sent Petitioner a Notice of Missed Interview (DHS-254) informing him that he missed his scheduled interview to redetermine his FAP benefits, and it is his responsibility to reschedule the interview before [REDACTED], or his redetermination will be denied. [Exhibit A, p. 44 (Reg. No. 18-003828).]
6. Petitioner is an ongoing recipient of MA – G2C coverage, subject to deductible. [Exhibit B, pp. 1-2 (Reg. No. 18-003007).]
7. Petitioner's MA fiscal group size is one. [Exhibit B, pp. 1-2 (Reg. No. 18-003007).]
8. Effective [REDACTED], Petitioner's G2C deductible increased to \$ [REDACTED] per month. [Exhibit B, pp. 1-2 (Reg. No. 18-003007).]
9. Petitioner works 30-35 hours per week, paid \$ [REDACTED] per hour, paid biweekly, and makes \$ [REDACTED] per week (\$ [REDACTED] biweekly pay). [Exhibit A, pp. 13-14; Testimony by Petitioner and the Department (Reg. No. 18-003007).]
10. On [REDACTED], Petitioner applied for SER assistance with property taxes. [Exhibit A, pp. 21-34 (Reg. No. 18-003007).]
11. On [REDACTED], the Department sent Petitioner a SER Decision Notice notifying him that his assistance for property taxes was denied because there was no notice of judicial foreclosure hearing. [Exhibit A, pp. 38-40 (Reg. No. 18-003007).]
12. On [REDACTED], Petitioner filed a hearing request, protesting his MA deductible and SER application denial. [Exhibit A, pp. 2-4 (Reg. No. 18-003007).]

13. The Department did not receive the FAP redetermination by the end of the benefit period ([REDACTED]). [Exhibit A, pp. 45-46 (Reg. No. 18-003828).]
14. Effective [REDACTED], Petitioner's FAP benefits closed based on the failure to obtain the redetermination. [Exhibit A, pp. 45-46 (Reg. No. 18-003828).]
15. On [REDACTED], Petitioner filed a hearing request, protesting his FAP case closure, MA deductible (duplicative hearing request), and SER application denial (duplicative hearing request). [Exhibit A, pp. 3-4; Testimony by Petitioner (Reg. No. 18-003828).]

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.

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.

Preliminary matter

Based on Petitioner's hearing requests and testimony, he is disputing the following: (i) the closure of his FAP benefits effective [REDACTED]; (ii) the calculation of his G2C deductible; and (iii) the denial of his State Emergency Relief (SER) application dated [REDACTED]. The undersigned will address each issue separately.

FAP benefits (Reg. No. 18-003828)

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2018), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2018), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 3. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 3. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 3.

Interview requirements are determined by the program that is being redetermination. BAM 210, p. 5. For FAP cases, an interview is required before denying a redetermination even if it is clear from the DHS-1010 or MDHHS-1171 or other sources that the group is ineligible. BAM 210, p. 5. The individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 6. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 6.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 12. Exception: For FIP, SDA and FAP only, if any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 12. Complete any missing sections during the interview. BAM 210, p. 12. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 12. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 12.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 13. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 13.

In the present case, the Department did not receive the FAP redetermination by the end of the benefit period (), which resulted in his benefits being closed. [Exhibit A, pp. 45-46.] The Department argued the closure was proper because he did not submit the requested redetermination by the due date.

Petitioner did not dispute that he did not submit his redetermination. Petitioner testified that his caseworker never called him for his telephone interview scheduled on [REDACTED] but that he did speak to the caseworker approximately one week later. Petitioner testified that he answered employment questions from the caseworker and informed his caseworker that he had his redetermination completed with verifications and that he would go to the local office and submit them. However, Petitioner testified his caseworker informed him that he did not need to submit the documents. As such, Petitioner testified he did not submit his redetermination, per his caseworker's instructions. It should be noted that Petitioner acknowledged that he has submitted his redetermination in years past.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FAP benefits effective [REDACTED], in accordance with Department policy. Petitioner asserted he did not submit his redetermination, per his caseworker's instructions. However, the undersigned does not find this argument persuasive. Petitioner acknowledged that he has submitted his redetermination in the past past, which means he is aware that such a document needs to be submitted when requested by the Department. Further, the Department sent Petitioner notices, including his Redetermination Telephone Interview (DHS-574) and Redetermination (DHS-1010), notifying him that that he had to submit his redetermination or his benefits could be cancelled. [Exhibit A, pp. 33-34.] Based on this information, the undersigned finds that Petitioner was clearly instructed that he had to submit his redetermination by the end of the benefit period, which he failed to do so in this case. And because Petitioner failed to submit the redetermination, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective April 1, 2018. See BAM 105, p. 9 and BAM 210, pp. 1-13.

MA benefits (Reg. No. 18-003007)

In this case, Petitioner argued that the deductible was excessive. In response, the Department argued that the G2C deductible was properly calculated. As such, the undersigned addressed whether the Department properly calculated Petitioner's G2C deductible of \$ [REDACTED] effective [REDACTED]. The Department presented the G2C budget for review. [Exhibit A, p. 12.]

G2C is a Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for Group 2 Medicaid in BEM 211. BEM 135, p. 2. In the present case, the Department is determining Petitioner's

eligibility; therefore, the Department can only use his income in determining eligibility. See BEM 211 (January 2016), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (October 2017), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for Petitioner. See BEM 536, p. 1.

First, a budgetable income will be done to determine the adult's (Petitioner's) prorated income. The evidence established that Petitioner's countable earned income is \$1,260 (\$315 weekly income per week times 4). [Exhibit A, pp. 12-14; BEM 530 (July 2017), p. 3.] Petitioner did not dispute his earnings amount.

Second, policy states to deduct \$90 from Petitioner's countable earnings, resulting in a net income of \$ [REDACTED] [BEM 536, p. 1.]

The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Petitioner's number of dependents is two (two of Petitioner's minor children). The Department then adds 2.9 to Petitioner's number of dependents (two), which results in a prorate divisor of 4.9. BEM 536, p. 4. The Department will then divide Petitioner's total net income by the prorate divisor, which results in the adult's prorated share amount of \$ [REDACTED] (\$ [REDACTED] net income divided by 4.9 prorate divisor). [Exhibit A, p. 12; BEM 536, p. 4.]

Then, an adult's fiscal group's net income is the total of the following amounts:

- The adult's net income ("Fiscal Group Member's Total Net Income") if the adult has no dependents or 2.9 prorated shares of the adult's own income if the adult has dependents (adult's "Step 13" times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "Step 13" times 3.9), plus
 - one prorated share of the adult's (person requesting MA) income (adult's amount from "**Step 13**").

Note: This is the couple's share of each other's income.

BEM 536, pp. 6-7.

Applying the above policy, the Department calculated an adult's share of adult's own income of \$ [REDACTED] (\$ [REDACTED] times 2.9), which results in a total net income of \$ [REDACTED] [Exhibit A, p. 12; BEM 536, pp. 6-7.]

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. However, evidence established

that he did not qualify for any of the budget credits (i.e., insurance premiums). [Exhibit A, p. 12.]

Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; and RFT 200 (April 2017), pp. 1-3. In this case, the monthly PIL for an MA group of one (Petitioner) living in Wayne County is \$ [REDACTED] per month. RFT 200, pp. 1-3; and RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly net income exceeds the applicable PIL. BEM 135, p. 2 and BEM 545 (January 2017 and April 2018), p. 2. Because Petitioner's monthly total net income of \$ [REDACTED] exceeds the \$ [REDACTED] PIL by \$ [REDACTED] the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA coverage under the G2C program with a monthly deductible of \$ [REDACTED] effective [REDACTED].

SER benefits (Reg. No. 18-003007)

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2017), p. 1. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 304, p. 1. Property taxes and fees are covered services that are covered by ERM 304. ERM 304, p. 1.

In the present case, Petitioner applied for SER assistance with property taxes on [REDACTED]. [Exhibit A, pp. 21-34.] In order to qualify for SER assistance with property taxes, the Department indicated that policy requires verification of notice scheduling a judicial foreclosure hearing. However, the Department testified Petitioner failed to send proof of the judicial foreclosure hearing and the notice showing how much he owed in taxes. [Exhibit A, p. 1.] As a result, on [REDACTED], the Department sent Petitioner a SER Decision Notice notifying him that his assistance for property taxes was denied because there was no notice of judicial foreclosure hearing. [Exhibit A, pp. 38-40.] It should be noted that Petitioner submitted the verification on [REDACTED] but this was after the denial date and he would have to submit a new application. [Exhibit A, pp. 1 and 41-42.]

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (January 2018), p. 7. The due date is eight calendar days beginning with the date of application. ERM 103, p. 7. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103, p. 7. This does not change the standard of promptness date. ERM 103, p. 7.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 7.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 7. The specialist must assist if the applicant needs and requests help. ERM 103, p. 7. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. ERM 103, p. 7. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 7.

Verification for property tax sale includes the following:

- Statement from taxing authority verifying total tax arrearage, and
- Notice scheduling a judicial foreclosure hearing. This occurs one year after forfeiture -- generally in February.

ERM 304, p. 6. Note, first, taxes become delinquent. ERM 304, p. 7. Then, a year later forfeiture occurs and interest and fees increase. ERM 304, p. 7. One year later, a circuit court hearing is held and foreclosure occurs. ERM 304, p. 7.

Based on the foregoing information and evidence, the Department improperly denied Petitioner's SER application dated [REDACTED], for assistance with property taxes. In this case, the Department denied Petitioner's SER application because he failed to provide proof of his notice scheduling a judicial foreclosure hearing. However, the Department failed to send Petitioner a DHS-3503, SER Verification Checklist, informing him to provide verification of the notice scheduling a judicial foreclosure hearing, in accordance with Department policy. Policy clearly states that clients must be informed of all verifications that are required and where to return verifications. ERM 103, p. 7. Policy further states that the Department uses a DHS-3503, SER Verification Checklist, to request verification. ERM 103, p. 7. Because the Department failed to inform Petitioner of his required verifications that must be submitted, it improperly denied his SER application in accordance with Department policy. ERM 103, p. 7; ERM 304, p. 7.

Accordingly, the Department is ordered to re-register and reprocess Petitioner's SER application in accordance with Department policy and as the circumstances existed at the time of application.

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 (i) the Department acted in accordance with Department policy when it properly closed Petitioner's FAP benefits effective April 1, 2018; (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's MA - G2C deductible amount of \$ [REDACTED] effective [REDACTED]; and (iii) the Department did not act in accordance with Department policy when it denied Petitioner's SER application dated [REDACTED], for property taxes.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP case closure and MA deductible and **REVERSED IN PART** with respect to the SER application denial.

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. Initiate re-registration and reprocessing of Petitioner's SER application dated [REDACTED], for property taxes, in accordance with Department policy and as the circumstances existed at the time of application;
2. Issue supplements to Petitioner for any SER benefits he was eligible to receive but did not from date of application; and
3. Notify Petitioner of its decision.

EF/hb



Eric J. Feldman
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) 763-0155; 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

Dora Allen
14061 Lappin
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Wayne County (District 76), DHHS

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Petitioner

[REDACTED]