



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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██████████, MI ██████████

Date Mailed: June 22, 2018
MAHS Docket No.: 18-004719
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 14, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Richkelle Curney, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly applied Petitioner's medical expenses towards Petitioner's ongoing Medicaid deductible.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP and Medical Assistance (MA) recipient.
2. On January 2, 2018, Petitioner submitted rent receipts to MDHHS. Petitioner's receipts did not include a residential address.
3. On January 19, 2018, MDHHS determined Petitioner to be eligible for Medicaid subject to an \$██████ /month deductible, effective February 2018. (Exhibit A, pp. 4-7)

4. On various unspecified dates since January 2018, Petitioner submitted to MDHHS documentation of various medical expenses.
5. Petitioner received \$█ in FAP benefits for February 2018 and March 2018. Petitioner's FAP eligibility factored an unspecified amount of rent expenses and \$█ in medical expenses (Exhibit A, p. 8 and 13)
6. On April 20, 2018, MDHHS determined Petitioner to be eligible for \$█ in FAP benefits, effective April 2018. The determination factored Petitioner's rent and medical expenses to be \$0. (Exhibit A, pp. 1-3)
7. On April 30, 2018, Petitioner requested a hearing to dispute rental and medical expenses concerning FAP benefits. Petitioner also requested a hearing to dispute an inability to obtain medical transportation for dialysis treatment.
8. As of April 30, 2018, MDHHS had not received rent receipts from Petitioner which included a residential address.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA eligibility. Petitioner did not dispute that he was eligible for Medicaid subject to an \$█/month deductible beginning January 2018 or an \$█/month deductible beginning April 2018. Petitioner testified his dispute concerned the processing of medical bills towards his deductible.

Petitioner testified he has regular dialysis appointments. Petitioner testified that he requires medical transportation to attend appointments. Petitioner testified that he meets his deductible early in calendar months and submits corresponding proof to MDHHS. Petitioner testified his previous MDHHS office quickly processed his medical expenses but his current MDHHS office has not. Petitioner's complaint appears to be that his specialist takes too long to apply his medical expenses towards his monthly deductible. Petitioner testified he misses necessary medical appointments because of the delay in processing by his specialist.

Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means

reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (January 2017) p. 10-11.

The standard of promptness (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. For MA benefits, MDHHS is to act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220 (January 2018) p. 7.

MDHHS testimony conceded that Petitioner regularly submits proof of meeting his deductible by the third of every month. MDHHS testimony implied that Petitioner could potentially have Medicaid from the third of the month to the end of a month.

Evidence was not presented concerning how long Petitioner's specialist took to process past medical expense submissions. Even if MDHHS took longer than 15 days to process Petitioner's expenses, Petitioner would not be eligible for an administrative remedy. The administrative hearing remedy for an MDHHS failure to meet a standard of promptness is to order MDHHS to process unprocessed work. Petitioner did not allege that MDHHS failed to process his expenses; Petitioner alleged that MDHHS habitually took too long to process his medical expenses towards his deductible. Given the circumstances, no remedy can be offered to Petitioner.

Petitioner's out-of-pocket expenses for dialysis seemed to consistently exceed his deductible. The regularity of the medical expenses suggested that perhaps MDHHS could budget the expenses as ongoing, so that Petitioner would automatically meet his deductible as of whatever date of the month he regularly incurred expenses that met his deductible amount. Such a possibility may be within MDHHS' discretion, but cannot be ordered because MDHHS policy only appears to require regular payment of home help services as an ongoing expense. Thus, MDHHS cannot be ordered to consider Petitioner's expenses as ongoing. Further, Petitioner did not present documentation that his medical expenses were ongoing.

Given the circumstances, Petitioner's only recourse appears to be to utilize medical transportation services that are willing to provide transportation while waiting for MDHHS to process Petitioner's expenses towards his deductible. Unfortunately for Petitioner, no other known remedy is available.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP eligibility from February 2018. MDHHS presented a Notice of Case Action (Exhibit A, pp. 1-3) dated April 20, 2018.

The notice informed Petitioner he was eligible to receive \$█/month in FAP benefits beginning April 2018.

Petitioner testified he is disputing FAP eligibility from February 2018. When asked why Petitioner waited until April 30, 2018, to request a hearing, Petitioner testified he submitted two earlier hearing requests to dispute his FAP eligibility from February 2018 (as well as a third hearing request which disputed medical transportation).

MDHHS presented a budget from February 2018 and a budget summary (Exhibit A, p. 2) which included all relevant FAP budget factors (see BEM 556). Petitioner disputed only rent and medical expenses.

On January 2, 2018, MDHHS received rent receipts from Petitioner. Petitioner's rent receipts did not include Petitioner's address. BEM 554 states that rent receipts must include the residential address to be acceptable verification of rent amount. Petitioner testified his specialist told him that his rent receipts submitted on January 2, 2018, were inadequate, and that in response, he submitted to MDHHS rent receipts with his residential address via email, in-person drop-off, and fax; Petitioner did not bring verification (e.g. fax confirmation) of his submissions to the hearing. MDHHS testimony indicated that a check of Petitioner's electronic case file revealed no submissions by Petitioner since January 2, 2018, concerning rent receipts.

Petitioner contended that his rent receipts must have been received by MDHHS because his FAP benefits increased from January to February. During the hearing, Petitioner's contention was thought to be verified by Petitioner's FAP budget for February 2018 (Exhibit A, pp. 8-9); the budget actually gave Petitioner no excess shelter deduction expense (which is indicative of no budgeted housing expenses).¹ Petitioner's FAP eligibility appeared to be increased because Petitioner was credited with \$█ in medical expenses.²

When clients submit documents to MDHHS, MDHHS forwards the documents to a centralized unit that scans the documents into a client's electronic case file. It is not a flawless process but has been shown over time to be reliable. For Petitioner's testimony to be accepted, MDHHS would have had to lose two of Petitioner's rent receipt submissions and three hearing requests. Given the evidence, it is more likely that Petitioner did not submit to MDHHS acceptable rent receipts. Without acceptable rent verification, it is found that MDHHS properly budgeted \$0 in rent expenses. Petitioner is encouraged to submit to MDHHS the rent receipts he brought to the hearing for consideration in future benefit months.

¹ Unfortunately, the budget page that was admitted did not list Petitioner's housing expenses. It is possible that MDHHS factored Petitioner's housing expenses to be \$█ but the expenses did not result in an excess shelter deduction. Excess shelter is calculated by adding a client's housing and utility credits and subtracting half of the client's adjusted gross income. Given the evidence

² A FAP budget for January 2018 was not presented. Without knowing what budget factors were used in January 2018, it cannot be determined with certainty why Petitioner's FAP eligibility increased from January 2018 to February 2018.

MDHHS policy allows for medical expenses to be factored in FAP eligibility. MDHHS is to estimate the client's medical expenses for the benefit period. The expense does not have to be paid to be allowed. MDHHS is to allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Only the non-reimbursable portion of a medical expense can be budgeted. The medical bill cannot be overdue. The medical bill is not overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue. BEM 554 (August 2017) pp. 8-12

As indicated in the MA analysis, MDHHS testimony conceded that Petitioner regularly submits proof of medical expenses which meet his \$█████ deductible by the third of every month. Petitioner's medical expenses should be factored as medical expenses in determining Petitioner's FAP eligibility; MDHHS provided no explanation for the contrary.

Given the evidence, MDHHS will be ordered to reevaluate Petitioner's FAP eligibility from April 2018 based on Petitioner's medical expense submissions. A more specific order cannot be granted because evidence of the amount of expenses was not submitted. MDHHS will be affirmed concerning Petitioner's FAP eligibility from February 2018 and March 2018 as presented budgets verified inclusion of medical expenses and Petitioner did not provide evidence that the expenses were under-budgeted.

DECISION AND ORDER


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner did not establish a remedy concerning MDHHS' alleged improper processing of medical expenses towards Petitioner's Medicaid deductible. It is further found that MDHHS properly determined Petitioner's FAP eligibility from February 2018 and March 2018. Concerning Petitioner's MA dispute and FAP eligibility from February 2018 and March 2018, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Evaluate Petitioner's submissions of medical expenses in consideration of Petitioner's FAP eligibility from April 2018; and
- (2) Initiate a supplement, if any, benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/tlf



Christian Gardocki
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

Via Email:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
S. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

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