



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 13, 2018
MAHS Docket No.: 18-008680
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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, an in-person hearing was held on October 18, 2018, in Flint, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Brad Reno, Hearings Facilitator. During the hearing, five multi-page documents were offered and admitted as Exhibit A through Exhibit E.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) Medicare Savings Program (MSP) cases?

Did the Department properly process Petitioner's report of medical expenses when calculating Petitioner's Food Assistance Program (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. Petitioner was an ongoing recipient of FAP and MA.
2. On May 4, 2018, the Department issued to Petitioner a Redetermination to gather ongoing information regarding Petitioner's eligibility for MA and MSP. Exhibit A, pp. 1-8.

3. On June 18, 2018, Petitioner returned to the Department the completed Redetermination. The Department did not properly process the returned Redetermination. At the time of hearing, the Department still did not have record of Petitioner returning the completed Redetermination. However, presented at the hearing was a date-stamped copy of the completed Redetermination showing that it was receiving by the Department on June 19, 2018, at the latest. Exhibit A, pp. 9-16.
4. On June 19, 2018, the Department issued to Petitioner a Verification of Assets form requiring Petitioner to provide the Department with verification of the balance and activity of two separate accounts held by Petitioner at Chase. Notably, Petitioner had already provided that information to the Department with the June 18, 2018, filing. Exhibit B, pp. 1-6.
5. On June 18, 2018, and July 9, 2018, the Department issued to Petitioner Health Care Coverage Determination Notices informing Petitioner that her MA and MSP cases were being closed effective July 1, 2018, for failing to return the Redetermination and verifications that she in fact returned. Exhibit C, pp. 1-11.
6. On July 25, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for full MA and MSP coverage effective July 1, 2018. Exhibit C, pp. 12-15.
7. On August 6, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for full MA and MSP coverage effective August 1, 2018. Exhibit C, pp. 16-18.
8. On August 6, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were being reduced to \$164 per month, effective September 1, 2018.
9. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her MA and MSP cases and reduction of her FAP benefits.

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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low-Income Medicare Beneficiary (SLMB), and the Additional Low-Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4.

In this case, Petitioner was an ongoing recipient of MSP, MA, and FAP benefits. In May of 2018, Petitioner's MA and MSP cases were due for Redetermination. As a result, the Department issued to Petitioner a Redetermination for her to fill out and return to the Department. Petitioner filled out and returned the forms, but for some reason the Department did not consider her filing as responsive to the Redetermination. Along with the Redetermination, Petitioner submitted verifications of all her assets and other eligibility related information.

Despite providing that information, the Department subsequently sent out a form requiring Petitioner to verify the very assets that she had done the day before but not received credit for. As Petitioner had already provided the information to the Department, she did not submit anything further. Shortly thereafter, the Department notified Petitioner that her MA and MSP cases were being closed for failing to return the Redetermination or verify assets.

When Petitioner's MA and MSP cases closed, it caused a ripple that negatively impacted her FAP benefits. In early August of 2018, Petitioner traveled to the Department offices in an attempt to resolve the problems related to her multiple benefits cases. While there, she submitted a number of receipts for medical bills that should have been factored into Petitioner's budget by the Department. However, the Department was unable to produce any evidence that it took into consideration any of the bills submitted by Petitioner.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), page 1. The level of FAP benefits a group receives is impacted by the income of the people in the group. BEM 550 (January 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, page 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, page 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

I find that the Department failed to follow Department policy when it closed Petitioner's MA and MSP cases for failing to return either the Redetermination or the requested verifications. It is clear from the record presented that Petitioner did in fact provide the requested information. It is also clear that the Department failed to properly process the submissions provided by Petitioner. Thus, the Department's decisions closing Petitioner's MA and MSP cases are hereby reversed.

With respect to Petitioner's FAP case, Petitioner is disabled and is entitled to have medical expenses she incurs factored in as an expense to be applied to the calculation of her FAP benefit allotment. BEM 554 (August 2017), pp. 8-12. Petitioner reported in early August of 2018 that she had a number of medical expenses. The Department, however, did not take any of Petitioner's reported medical expenses into consideration.

The Department must verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 12. In addition, if a reported change results in a benefit increase, the Department is required to act on a change reported within 10 days of becoming aware of the change. BAM 220 requires processing as follows:

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. 8-9.

A medical bill and receipt for a prescription were submitted by Petitioner in August of 2018. Petitioner's submission obligated the Department to review and process the bills to determine the eligible medical expenses. No evidence was presented to show that the Department took any action whatsoever with respect to

those expenses. Thus, the Department failed to meet its burden of showing that it complied with Department policy in calculating Petitioner's FAP benefits.

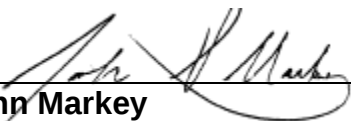
DECISION AND ORDER

Accordingly, the Department's decisions are **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 shall reinstate Petitioner's MA and MSP cases as of July 1, 2018.
2. The Department shall provide retroactive coverage for any expenses incurred that should have been covered but were not due to the improper closures;
3. The Department process all Petitioner's reported medical expenses pursuant to Department policy and law;
4. The Department shall allow Petitioner the opportunity to verify any reported medical expenses that the Department receives and deems insufficiently verified;
5. The Department shall recalculate Petitioner's FAP benefits taking into consideration Petitioner's reported and verified medical expenses, effective September 1, 2018;
6. If Petitioner is eligible for additional FAP benefits, the Department shall issue Petitioner a supplement;
7. The Department shall provide Petitioner with written notice of its determination.

JM/dh


John Markey
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

Lindsay Miller
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]