



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: December 28, 2018  
MAHS Docket No.: 18-011930  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

**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 December 18, 2018 from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearing Facilitator.

**ISSUE**

Did the Department properly determine the Petitioner's eligibility for Food Assistance Program and Medical Assistance (MA)?

**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 [REDACTED] 2018, the Petitioner applied for FAP and MA. Department Exhibit 1, pgs. 6-11.
2. On October 6, 2018, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that she was eligible for \$[REDACTED] a month in FAP benefits effective October 2018. Department Exhibit 1, pgs. 24-27.
3. On October 6, 2018, the Department Caseworker sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606, that she was not eligible for the MA Cost Share Program because she has full MA coverage. Department Exhibit 1, pgs. 28-30.

4. On November 13, 2018, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

### **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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600. Moreover, BAM 600 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In this case, there has been no change in the Petitioner's MA benefits since February 2018, which makes her hearing request dated November 13, 2018 not timely. The MA hearing portion is dismissed as not timely.

During the hearing, the Department Caseworker determined that the Petitioner was paying Consumers Energy, which made her eligible for the home heating utility credit for FAP. As a result, the Department will redetermine the Petitioner's eligibility for FAP.

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 did not count the Petitioner's Consumers Energy bill for her home heating utility credit for FAP determination.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA and **REVERSED IN PART** with respect to FAP.

Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated September 25, 2018, by recalculating her FAP eligibility with the home heating utility credit.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.



CF/nr

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Carmen G. Fahie  
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**

Lauren Casper  
27690 Van Dyke  
Warren, MI  
48093

Macomb 20 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI  
[REDACTED]