



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: January 8, 2019
MAHS Docket No.: 18-010971
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on January 3, 2019, in Saginaw, Michigan. Petitioner, [REDACTED] [REDACTED] appeared with her son, [REDACTED] [REDACTED] Hearing Facilitator, Natalie McLaurin, appeared for the Department.

One exhibit was admitted into evidence during the hearing. A 57-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Does the Michigan Administrative Hearing System (MAHS) have jurisdiction to address Petitioner's disputes regarding Medical Assistance (MA) and State Emergency Relief (SER) when Petitioner requested her hearing orally?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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 is a FAP benefit recipient.
2. On [REDACTED] 2018, the Department issued a Redetermination to Petitioner with instructions to provide information so that the Department could review her eligibility for benefits.

3. On [REDACTED], 2018, the Department received Petitioner's completed Redetermination. Petitioner reported that she was disabled. Petitioner reported that she had an income \$[REDACTED] per month from Social Security. Petitioner reported that she was responsible for paying \$62.00 per month for rent. Petitioner reported that she was responsible for paying utilities. Petitioner reported that she incurred a hospital bill of \$349.00 on [REDACTED] 2018. Petitioner reported that her 20-year-old son lived with her and that he was a student.
4. Petitioner's son attended college at [REDACTED] Community College as a full-time student. He did not work or participate in a work study program. He did not provide the majority of care for a minor child. He was not a Family Independence Program (FIP) recipient. He was able to work but chose to focus on school instead.
5. Petitioner has Medicare Savings Plan coverage which pays her Medicare part B premium for her.
6. On August 31, 2018, the Department issued a Notice of Case Action to Petitioner to notify her that her FAP benefit amount increased to \$58.00 per month effective September 1, 2018. The Department calculated Petitioner's FAP benefit based on a group size of one, an unearned income of \$[REDACTED] per month, a medical expense deduction of \$102.00 per month, and shelter expenses of utilities plus \$62.00 for rent.
7. On September 8, 2018, the Department issued a Notice of Case Action to Petitioner to notify her that her FAP benefit amount increased to \$62.00 per month effective October 1, 2018. The Department calculated Petitioner's FAP benefit based on a group size of one, an unearned income of \$[REDACTED] per month, a medical expense deduction of \$102.00 per month, and shelter expenses of utilities plus \$62.00 for rent. The increase was the result of Department policy changes which increased the standard deduction and heat/utility standard.
8. On October 11, 2018, Petitioner orally requested a hearing to dispute her FAP benefit amount. Petitioner also intended to dispute MA and SER decisions.
9. On October 17, 2018, the Department issued a Notice of Case Action to Petitioner to notify her that her FAP benefit amount decreased to \$16.00 per month effective November 1, 2018. The Department calculated Petitioner's FAP benefit based on a group size of one, an unearned income of \$[REDACTED] per month, and shelter expenses of utilities plus \$62.00 for rent. The decrease was the result of the Department removing the medical expense deduction.

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).

As an initial issue, I will address Petitioner's request to be heard regarding disputes she has with MA and SER decisions. Hearing requests must be made in writing and signed by an adult group member or an authorized hearing representative. BAM 600 (October 1, 2018), p. 1. The only hearing requests that may be made orally are those made to dispute FAP benefits. BAM 600, p. 1. Here, Petitioner's hearing request was made orally, so it can only be considered a valid hearing request to dispute FAP benefits. Thus, I cannot address Petitioner's disputes she had with MA and SER decisions. If Petitioner wants to dispute MA and SER decisions, she must file her hearing request in writing in accordance with BAM 600.

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 Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2017), BEM 213 (January 1, 2018), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260.

To determine a client's group size, the Department must determine whether a student is an eligible student pursuant to BEM 245. A student is only included as a group member when he is determined to be an eligible student pursuant to BEM 245. A student is an eligible student when he is aged 18 to 49, enrolled half-time or more in college or trade school, and at least one of the following: (a) a FIP recipient, (b) enrolled as a result of a job training program such as Job Training Partnership Act (JTPA) or Trade Readjustment Act (TRA), (c) employed at least an average of 20 hours per week, (d) unfit for work, (e) participating in on-the-job training or government funded work study, or (f) providing more than half of the physical care for a group member under the age of six or providing more than half of the physical care for a group member aged six through eleven when adequate child care is unavailable. BEM 245 (January 1, 2018), p. 3-5. Here, the Department correctly excluded Petitioner's son as a group member because he did not meet the criteria of BEM 245. Although Petitioner's son was an eligible age and enrolled in an eligible school, he did not meet one of the other

necessary requirements to be considered an eligible student. Thus, the Department appropriately determined Petitioner's group size was only one.

To determine a client's countable income, the Department considers the expenses and deductions that a client is entitled to such as the standard deduction, allowable medical expenses, excess shelter expense, and the heat/utility standard. Here, Petitioner was entitled to a standard deduction for a household size of one, Petitioner was entitled to a deduction of any excess shelter expense she had, and Petitioner was entitled to a heat/utility standard deduction. Petitioner also had a medical expense, so she was entitled to have it considered. When a client has an allowable one-time medical expense, the Department must give the client the option to either budget it in one month or average it over the balance of the benefit period. BEM 554 (August 1, 2017), p. 9-10. Here, the Department did not present any evidence to establish that it gave Petitioner such an option. Therefore, the Department's actions were not in accordance with its policies.

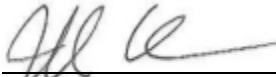
DECISION AND ORDER

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 the Department did not act in accordance with its policies and the applicable law when determined Petitioner's FAP benefit amount on August 31, 2018.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's FAP benefit amount and take into consideration Petitioner's choice whether to budget her one-time medical expense of \$349.44 in one month or average it over the balance of her benefit period.

JK/nr



Jeffrey Kemm
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

Kathleen Verdoni
411 East Genesee
Saginaw, MI 48607

Saginaw County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

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