



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: December 27, 2018
MAHS Docket No.: 18-012005
Agency No.: ██████████
Petitioner: ██████████

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, a telephone hearing was held on December 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Ryan Clemons, Family Independence Manager, and Mark McBride, Eligibility Specialist. During the hearing, both parties offered documents into evidence. A 30-page packet of documents was offered by the Department and admitted as Exhibit A, pp. 1-30. Petitioner offered a three-page packet of documents, which was admitted as Exhibit 1, pp. 1-3. Petitioner also offered a one-page document, which was admitted as Exhibit 2.

ISSUE

Did the Department properly process Petitioner's submitted Medical Expenses for inclusion as an expense 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 FAP recipient and is disabled.
2. On ██████████ 2018, Petitioner submitted a receipt for medical expenses to the Department. Along with the receipt was an explanation informing the Department

that the receipt was for a two-week supply of a drug prescribed by her doctor. The receipt showed that the two-week supply cost \$16.44. Accompanying the receipt and the statement was a contemporaneous letter written on [REDACTED] Clinic letterhead stating that Petitioner was prescribed the purchased drug and would need to continue taking it indefinitely. Exhibit 1, pp. 1-3; Exhibit 2.

3. In [REDACTED] 2018, Petitioner submitted another receipt showing that she purchased the prescribed medication for \$16.44 and informing the Department that this was a recurring medical expense that took place twice per month. Exhibit 1, p. 2.
4. The Department did not consider Petitioner's submissions in calculating Petitioner's monthly FAP benefits.
5. On November 15, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's refusal to factor the above-mentioned medical expenses into her FAP budget.

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.

In this case, Petitioner has sought a hearing regarding the Department's processing of a reported change of medical expenses that could result in an increase in her FAP benefits. Petitioner is disabled and receives Social Security Disability and is entitled to have medical expenses she incurs factored in as an expense to be applied to the calculation of her Food Assistance benefit allotment. BEM 554 (August 2017), pp. 8-12. Petitioner objects to the Department's failure to consider her reported and documented monthly prescription cost of \$32.88 that started in [REDACTED] 2018 and was supported by both receipts and a doctor's note explaining the reason for the expense.

The Department explained at the hearing that it refused to take into consideration Petitioner's prescription expense described above because the expenses were not verified. The Department conceded that it did not inform Petitioner that her submission was insufficient to verify the expense.

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 receipt for a prescription, an explanation of the receipt, and a doctor's note explaining why the prescription was necessary were submitted by Petitioner in [REDACTED] of 2018. Petitioner's submission obligated the Department to review and process the bills to determine the eligible medical expenses. Part of that review is verification of the expenses. No request by the Department for verification of medical expenses was presented at the hearing after the submissions of medical expenses by Petitioner. Furthermore, it seems as though the documents presented by Petitioner should have been sufficient to conclude that this expense was legitimate. The Department simply deemed Petitioner's submission insufficient and refused to consider the reported expenses when calculating Petitioner's level of FAP benefits. The Department must at least allow Petitioner to verify allowable medical expenses after submitting compelling evidence of the expense.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed the Petitioner's reported medical expenses.

DECISION AND ORDER

Accordingly, the Department's decision is **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 process all Petitioner's reported medical expenses pursuant to Department policy and law;

2. The Department shall allow Petitioner the opportunity to verify any reported medical expenses that the Department receives and deems insufficiently verified;
3. The Department shall recalculate Petitioner's FAP benefits taking into consideration Petitioner's reported and verified medical expenses, effective [REDACTED], 2018;
4. If Petitioner is eligible for additional FAP benefits, the Department shall issue Petitioner a supplement;
5. 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

Tiffany Flemings
22 Center Street
Ypsilanti, MI 48198

Washtenaw County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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