



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: February 1, 2019
MAHS Docket No.: 18-013322
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, a telephone hearing was held on January 24, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kendra Williams, Eligibility Specialist. During the hearing, a 41-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-41.

ISSUE

Did the Department properly budget reported and verified medical expenses when determining 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 is disabled and an ongoing recipient of FAP benefits.
2. Petitioner regularly submits to the Department receipts showing expenses incurred for medical purposes. (Exhibit A, pp. 26-34.)
3. On August 7, 2018, Petitioner submitted a report showing that she incurred medical expenses of \$[REDACTED] on August 1, 2018. At no point was this expense budgeted into Petitioner's FAP budget. Petitioner received \$[REDACTED] in FAP benefits for September and October 2018. (Exhibit A, p. 26.)
4. On October 16, 2018, Petitioner submitted a report showing that she incurred medical expenses of \$[REDACTED] on October 1, 2018. That expense was budgeted into

Petitioner's FAP budget for November 2018, resulting in Petitioner receiving \$ [REDACTED] in FAP benefits for December 2018. (Exhibit A, pp. 22, 26.)

5. On December 17, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's failure to consider her verified medical expenses when budgeting her FAP benefits.
6. Petitioner's request for hearing also raised issues concerning Medicaid (MA). However, prior to the hearing, Petitioner withdrew her request for hearing with respect to her MA benefits. Therefore, the only issue involved in this case is FAP.

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 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 medical expenses, including a \$ [REDACTED] expense incurred and validated in August 2018. At the hearing, the Department could not explain how the \$ [REDACTED] expense was applied in Petitioner's case.

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), pp. 8-9.

According to the Department's records that were presented during the hearing, Petitioner verified to the Department that she had medical expenses of \$ [REDACTED] in August 2018. Petitioner's submission obligated the Department to apply the expenses to Petitioner's budget and redetermine Petitioner's FAP allotment. Instead, the Department seemingly ignored the submission never gave Petitioner the benefit of having verified medical expenses in any month after the expense was submitted. The Department must apply the medical expenses properly to the September FAP allotment and issue Petitioner a supplement.

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 for the month of September 2018 taking into consideration Petitioner's reported and verified medical expenses of \$ [REDACTED];
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/jaf



John Markey
Administrative Law Judge
for Robert Gordon, 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
MDHHS-Macomb-20-Hearings

Petitioner

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

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M Holden
D Sweeney