



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

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██████████ MI ██████████

Date Mailed: February 13, 2019
MAHS Docket No.: 19-000243
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on February 7, 2019, from Lansing, Michigan. Petitioner was represented by himself, and his fiancé ██████████ testified on his behalf. The Department was represented by Richkelle Curney and Alycia Duncan.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA) 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. On December 11, 2018, the Department notified Petitioner that he was eligible for Medical Assistance (MA) with a \$833 monthly deductible effective December 1, 2018. Exhibit A, pp 6-8.
2. On December 14, 2018, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$192 monthly allotment as of January 12, 2019. Exhibit A, pp 12-13.
3. On December 17, 2018, the Department denied Petitioner's request for an exception to policy preventing his access to Medical Assistance (MA) benefits before incurring medical expenses exceeding his monthly deductible. Exhibit A, p 5.

4. Petitioner incurred medical expenses not covered by Medicare of \$690.03 in September of 2018 and \$751.68 in October of 2018. Exhibit A, p 5.
5. On January 2, 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) with a \$833 monthly deductible effective February 1, 2019. Exhibit A, pp 9-11.
6. On January 4, 2019, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) and Medical Assistance (MA) benefits he is receiving. Exhibit A, pp 2-3.
7. On January 10, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$15 monthly allotment as of February 1, 2019. Exhibit A, pp 14-15.

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 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.

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.

Petitioner is an ongoing MA and FAP recipient. The Department does not dispute that Petitioner had incurred medical expenses not covered by Medicare of \$690.03 in September of 2018, and \$751.68 in October of 2018. Based on these medical expenses, the Department denied approving Petitioner for medical transportation because had not incurred expenses exceeding his monthly deductible.

Petitioner testified that he is a dialysis patient, that he requires regular medical treatment, and that he has regularly provided expense invoices to the Department.

The Department will only consider the medical expenses of senior/disabled/veteran (SDV) FAP recipients. The Department will estimate medical expenses for the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8-9.

The Department did not dispute that Petitioner is an SDV FAP recipient but that his countable medical expenses had been estimated improperly based on insufficient documentation previously submitted by Petitioner. The Department testified that something from Petitioner was entered into the electronic case file more recently but that it was not readable.

The Department failed to offer evidence of Petitioner's gross monthly income or provide a copy of a budget to explain the determination of his monthly deductible. Therefore, the Department failed to establish by a preponderance of evidence that it properly determined the amount of his monthly deductible for MA benefits.

The record evidence supports a finding that Petitioner has more than \$0 ongoing medical expenses.

The Department failed to offer evidence that his countable medical expenses were properly determined for the purposes of determining his eligibility for FAP benefits. A group of one with a gross monthly income of [REDACTED] is not eligible for QMB or SLMB benefits. The evidence does not establish that the Department pays for all of Petitioner's medical coverage premiums. It was not proper to simply remove all medical expenses pending the submission of additional verification by Petitioner just because some prior expenses were not properly verified.

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 determined Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

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. Give Petitioner a ten-day to submit verification of medical expenses he has incurred.
2. Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) as of January 1, 2019.

3. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/dh



Kevin Scully
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

EQAD via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

Petitioner

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