



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 23, 2019
MOAHR Docket No.: 19-004099
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, 3-way telephone hearing was held on May 21, 2019, from Lansing, Michigan. The Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Mark McBride, ES, and Ryan Clemons, FIM.

ISSUE

Did the Department properly calculate Petitioner's April FAP budget?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant time, Petitioner has been a beneficiary of the FAP program.
2. Petitioner has 4 recurring FAP medical expenses which the Department regularly budgets on every FAP monthly budget: Medicare Part D: \$39.20; medical, dental and vision, including transportation/lodging to obtain services: \$49.39; recurring prescription drugs: \$33.00; and recurring over-the-counter medication: \$16.57. See Exhibit A.5.
3. In the April 2019 FAP budget, Petitioner submitted additional medical expenses. The Department budgeted Petitioner's medical expenses as itemized on the 2nd page list found at Exhibit A.5-6.

4. The Department calculated Petitioner's April 2019 FAP eligibility budgeting her recurring and additional medical expenses. That budget shows Petitioner's eligibility to be \$104.00. Exhibit A.3.
5. On April 1, 2019 the Department issued a Benefit Notice informing Petitioner that her FAP benefit effective April 1, 2019 will be \$104.00 with \$175.00 in medical expenses applied.
6. On April 17, 2019 Petitioner filed a hearing request disputing that the medical expenses were applied correctly.

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.

Here, applicable policy regarding FAP medical expense budgeting is found primarily in BEM 554. Corresponding federal regulations are found at 7 CFR 273.2(f)(iv).

In this case, the Department submitted a very thorough expense accounting of Petitioner's medical expenses as submitted, processed and applied to the month of April 2019. These expenses include regular recurring medical expenses, and new medical expenses submitted by Petitioner. As to the Department's burden of going forward, the Department explained and presented credible evidence of Petitioner's expenses, itemized accounting, and FAP budgeting to show both recurring and newly applied expenses for the FAP budget for April 2019. See Exhibit A.3.

Having met its burden of going forward, the burden of proof then rests with Petitioner. Here, Petitioner submitted a very extensive list of medical expenses, beginning with January 12, 2019 through March 29, 2019. Petitioner also submitted 4 docket numbers from 4 prior ALJ decisions with MOAHR for 2019 which have already reviewed and ruled on Petitioner's medical expenses prior to the April FAP 2019 budge. Petitioner asked the undersigned to review each ALJ decision in conjunction with her expenses since January 2019. Petitioner was not specific. It appears that Petitioner had an administrative hearing for each month in 2019 regarding each month's medical expense budget for FAP. To date, Petitioner has not requested a reconsideration, or a rehearing.

First, Petitioner is advised that the undersigned does not have jurisdiction to review issues Petitioner has already had addressed at an administrative hearing. If Petitioner disputed what the ALJ rules, and/or feels that the Department has not carried out an ALJ orders, then Petitioner's recourse is to file a reconsideration or rehearing, or appeal to the circuit court.

As to April 2019 that has not yet been reviewed, the Department presented credible and substantial information regarding Petitioner's medical expenses and their application to the FAP budget. Petitioner argues that she is not sure if they were done correctly. When Petitioner did question 2 expenses, there was no evidence that these expenses were budgeted incorrectly. Petitioner then asked the ALJ to read through all of her expenses, and all of the ALJ decisions, and make a decision.


Petitioner failed to articulate with specificity what she disputed. Petitioner has not brought forth credible or substantial evidence that there is an error in her FAP budget. Petitioner has not met her burden.

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 acted in accordance with Department policy when it calculated Petitioner's April 2019 FAP budget.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



Janice Spodarek
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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

Sarina Baber
22 Center Street
Ypsilanti, MI
48198

Washtenaw County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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