



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 23, 2019
MOAHR Docket No.: 19-008958
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, a telephone hearing was held on September 19, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Rachel Hesse, ES.

ISSUE

Did the Department properly budget Petitioner's medical expenses?

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 times, Petitioner has been a beneficiary of the FAP program.
2. Petitioner has received FAP benefits for years. For years, Petitioner has been allowed certain medical expense deductions due to recurring medical expenses.
3. On June 5, 2019 at redetermination the Respondent processed Petitioner's case and failed to give her the medical expenses deduction. On June 5, 2019 the Respondent issued a Notice of Case Action that her benefits will be reduced from \$192.00 to \$15.00 per month.
4. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request disputing the 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.

Applicable policy regarding FAP expense budgeting is found primarily in BEM 554. Corresponding federal regulations are found at 7 CFR 273.2.

Here, the Department testified that it attempted to put in the medical expenses, but the computer did not “take the input.” The Department further did not have copies of the June 5, 2019 Notice of Case Action as well as a subsequent August 1, 2019 case action. The record was insufficient to make an adequate review of the Respondent’s actions.

The Department stipulated at the administrative hearing that Petitioner is entitled to the medical expenses and agreed to reprocess and recalculate Petitioner’s FAP budget and eligibility. The Department further stipulation that Petitioner should be eligible for the medical expense deduction, in accordance with policy.

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 Department policy when it calculated Petitioner’s FAP budget at the May 2019 redetermination and as noticed in the June 1, 2019 Notice of Case Action.

DECISION AND ORDER

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

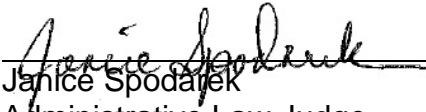
THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Petitioner's FAP budget pursuant to the July 1, 2019 effective date of FAP benefits, and
2. Reassess Petitioner's medical expense deductions which policy allows, and
3. Issue a new notice to Petitioner informing her of the outcome, and
4. Issue any supplemental benefits to Petitioner to which she is entitled.

Petitioner shall retain a right to a new hearing on the issue of the FAP calculation and the budgeting of her medical expenses that shall relate back to her FAP benefits effective July 1, 2019 for 90 days from the date of the new notice.

It is so Ordered.

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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI
48227

Wayne 31 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI