



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 27, 2017
MAHS Docket No.: 17-012158
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 October 17, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing with his wife, [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by Serlibrity Goode, Hearing Facilitator.

ISSUE

Did the Department properly process 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 recipient of FAP benefits.
2. On or around May 4, 2017 Petitioner requested a hearing disputing the Department's calculation of his FAP benefits, specifically, the processing of medical expenses submitted to be applied to the medical deduction on the FAP budget.
3. On May 24, 2017 an administrative hearing (MAHS Docket Nos. 17-005147/17-006224) was held before Administrative Law Judge (ALJ) Carmen Fahie.

4. ALJ Fahie found that the Department did not act in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits based on his medical deduction. (See Hearing Decision for MAHS Docket Nos. 17-005147/17-006224)
5. ALJ Fahie reversed the Department's actions and ordered the Department to begin doing the following within ten days of the mailing date of the Decision and Order: initiate a redetermination of Petitioner's eligibility for FAP benefits retroactive to March 2017 through June 2017 by sending out a new Verification Checklist for Petitioner to submit his ongoing medical expenses and maintaining a spreadsheet for each month with the corresponding medical expenses. (See Hearing Decision for MAHS Docket Nos. 17-005147/17-006224)
6. On July 19, 2017 the Department completed an Administrative Hearing Order Certification (DHHS-1843) to show how it complied with ALJ Fahie's decision. (Exhibit B)
7. There was no evidence presented that the Department recalculated Petitioner's FAP budget for the months of March 2017 to June 2017 and no evidence presented concerning which medical expenses were applied to each month's FAP budget.
8. On or around September 11, 2017 Petitioner requested a hearing disputing the Department's failure to comply with ALJ Fahie's Decision and Order.

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 requested a hearing disputing the Department's failure to properly implement the Decision and Order issued by ALJ Fahie after a hearing held on May 24, 2017. Petitioner testified that his FAP benefits from July 1, 2017, ongoing were correct and confirmed that he had no issue with the Department's processing of medical expenses for July 1, 2017, ongoing. Petitioner clarified that at issue was his FAP benefits from March 2017 to June 2017 and the Department's failure to comply with the

hearing decision mailed on June 9, 2017 which ordered the Department to redetermine his FAP eligibility for March 2017 to June 2017 and to consider applicable medical expenses.

According to BAM 600, the Department is to implement and certify a decision and order within ten calendar days of the mailing date on the hearing decision. If implementation requires a redetermination, the Department is to send a notice of case action on the redetermination action. BAM 600 (April 2017), pp. 42-43. When a hearing decision requires a case action different from the one originally proposed, a DHHS-1843, Administrative Hearing Order Certification is sent with the decision and order. The Department is to complete the necessary case action and send the DHHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 43.

At the hearing, the Department testified that it certified and implemented the Decision and Order issued by ALJ Fahie and presented a DHHS-1843 dated June 19, 2017 to show its compliance (Exhibit B). According to the DHHS-1843 presented, the Department indicated that compliance was achieved because medical expenses were used from February to current to determine eligibility and all medical bills were considered in determining eligibility. It further indicates that bills that were not usable are annotated (Exhibit B). Although the Department stated that a spreadsheet was created in accordance with the Decision and Order, the spreadsheets for the months at issue (March 2017 to June 2017) were not presented for review and much of the Department's hearing packet consisted of evidence/documentation regarding his FAP eligibility for July 2017, ongoing. Thus, it was unclear which medical expenses/bills were considered by the Department, for which months they were applicable and what amount, if any in FAP supplements Petitioner was eligible to receive from March 2017 to June 2017.

Additionally, while the Department testified that medical expenses were considered, the Department did not present any evidence that it initiated a redetermination of Petitioner's FAP eligibility for March 2017 to June 2017 as ordered by ALJ Fahie, because there were no FAP budgets presented for review to show the medical deduction applied for each month. The evidence did not establish that the Department recalculated Petitioner's FAP budgets for the March 2017 to June 2017 period at issue.

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 processed Petitioner's FAP benefits and failed to fully comply with the hearing Decision and Order issued by ALJ Fahie.

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. Recalculate Petitioner's FAP budget for March 2017 to June 2017 taking into account applicable medical expenses;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from March 2017 to June 2017, ongoing, for any FAP benefits he was eligible to receive but did not, in accordance with Department policy; and
3. Notify Petitioner in writing of his FAP benefit eligibility for each month from March 2017 to June 2017.



ZB/tlf

Zainab A. Baydoun
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) 335-6088; 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

Via Email:

MDHHS-Oakland-3-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

