



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002502
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 April 11, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Ryan Clemons, Family Independence Manager, and Mark McBride, Eligibility Specialist. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly consider Petitioner's medical expenses when determining Petitioner's Food Assistance Program (FAP) benefits for March 2019?

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 an ongoing recipient of FAP benefits from the Department and is disabled.
2. Petitioner and the Department have been parties to numerous hearings on the issue of whether Petitioner's reported and verified medical expenses are being factored into Petitioner's FAP budget in any given month.
3. On October 10, 2018, the Department issue to Petitioner a letter explaining the process and requirements for submission and consideration of her medical

expenses. The document explained that already built into every month's budget are recurring expenses of \$33 for medications and the value of three trips to a medical facility, regardless of whether Petitioner actually incurs those expenses. Further, Petitioner was informed that in order to have additional medical expenses for medications or transportation, Petitioner would have to first show that she incurred expenses beyond the recurring expenses already budgeted. Thus, if Petitioner provided verifications for five instances of medically required transportation trips, the first three would go towards meeting the already budgeted recurring expenses, and the two additional will be added to the budget as an additional medical expense. Exhibit A, p. 8.

4. In the month of February 2019, Petitioner verified five medical transportation trips.
5. In the March 2019 FAP budget, Petitioner was given an additional medical expense to cover one medical transportation trip beyond the three that are budgeted every month. Exhibit A, p. 4.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's processing of her reported and verified medical expenses.

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 sought a hearing regarding the Department's processing of Petitioner's reported medical expenses. Petitioner believed that the Department failed to account for all of her reported medical expenses, causing her to receive fewer FAP benefits than she was entitled in March 2019. Petitioner's grievance with the Department's processing of her reported medical expenses is longstanding. On several occasions, the same parties and same witnesses have appeared in hearings before the undersigned with the same dispute concerning a different month.

Petitioner is disabled and receives Social Security Disability 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.

In an effort to avoid the perpetuation of this dispute, the Department issued a letter to Petitioner clarifying her reporting requirements and the terms and conditions upon which the Department will factor additional medical expenses into her FAP budget beyond the medical expenses factored into every month's budget as a recurring expense. It was explained in that letter that to get credit for transportation costs beyond the expenses related to three trips already being budgeted, Petitioner had to submit verifications of the three trips before being given credit for the additional trips. The same rule applied to medications. The point of that rule was to prevent the double counting of medical expenses. After all, if Petitioner submitted verifications related to two trips, that information does not even serve to justify the three already being budgeted. Thus, only expenses related to trips beyond the three already being budgeted would be added to the budget as additional expenses.

During the hearing, the Department witness testified that the Department properly considered Petitioner's reported and verified medical expenses and gave her credit for one additional trip beyond the three budgeted into every month. Thus, the Department concluded that Petitioner had four verified medical transportation trips that should be included into the March budget. In support of that contention, the witness presented screenshots from Bridges from pages titled "Medical Expenses – Summary," "Medical Expense Deduction," and "Case Comments – Summary." Those pages do not clearly explain the action taken by the Department and appear to show that Petitioner verified five medical transportation trips during the month but was only credited for four. When asked to explain the discrepancy, the Department witness conceded that it was not clear what happened but ensured everyone that all of Petitioner's medical expenses are being applied and that if it was not properly budgeted in March 2019, it surely would have been factored into the April 2019 budget.

That assurance is not sufficient to sustain the Department's burden. While the Department witness has clearly been putting forth a good-faith effort to provide quality services to Petitioner and he very likely was correct in assuming that the expense was factored in at some point, the fact remains that the Department failed to present sufficient evidence at the hearing to satisfy its burden of proving that its actions were taken in compliance with law and policy. Based on a review of the evidence on the record, Petitioner's medical expenses were not properly budgeted into her March 2019 FAP budget.

This ongoing and repetitious dispute has been frustrating for both parties. Nearly every month, Petitioner submits numerous medical bills at different times throughout the month. The Department then processes those submissions and if appropriate, alters the following month's budget to account for those additional expenses. Petitioner then files a hearing request that essentially challenges the accounting practices of the Department with respect to the processing of medical bills. At the hearing, Petitioner expresses frustration with the fact that she never has a clear understanding of which expenses were considered or rejected and why. The Department then attempts to substantiate its decision but at least in this instance, is unable to because of an accounting system that is anything but a model of clarity. Perhaps providing copies of

the submissions with a corresponding reference chart showing a list of medical expenses submitted along with the amount of the expense; the date the expense was incurred; the date the expense was reported to the Department; whether the expense is considered verified; if verified, the date the expense was verified to the Department; and which month's budget the expense was applied to. This accounting suggestion is not to be construed as an order. Nor is it a slight to the Department worker in this case, who has been diligently addressing Petitioner's case for quite some time. It is merely a suggestion that may or very well may not produce results that are agreeable for both parties, in contrast to the present dynamic.


DECISION AND ORDER

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 FAP benefits for the month of March 2019. 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. Redetermine Petitioner's FAP benefits for the month of March 2019, ensuring that all reported and verified medical expenses are properly factored into Petitioner's FAP budget;
2. If Petitioner is eligible for additional FAP benefits, promptly issue a supplement; and
3. Notify Petitioner in writing of its decision.

JM/cg



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

Via Email:

MDHHS-Washtenaw-20-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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