



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 26, 2019
MOAHR Docket No.: 19-012484
Agency No.: ██████████
Petitioner: ██████████

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 December 19, 2019 from ██████████ Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's grandson, ██████████. The Department of Health and Human Services (Department) was represented by Candice Benns, Hearings Facilitator. During the hearing, a 34-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 6-39.

ISSUE

Did the Department properly process Petitioner's ██████████, 2019 application for State Emergency Relief (SER)?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective October 1, 2019?

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective October 1, 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. On ██████████, 2019, Petitioner submitted to the Department an application for SER benefits.

2. On May 13, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that she was conditionally approved for SER benefits. In relevant part, the Department informed Petitioner that it would not issue any SER funds until Petitioner provided proof that she paid her \$208.64 copayment. Petitioner was given until June 4, 2019 to provide proof of the payment. Exhibit A, pp. 1-2.
3. Petitioner did not make the required copayment, and the Department did not issue the conditionally approved SER funds. However, the Department did not provide Petitioner with any further notice regarding its decision to not issue the funds.
4. On September 24, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for monthly FAP benefits of \$█, effective October 1, 2019. Exhibit A, pp. 30-31.
5. On September 24, 2019 and October 29, 2019, the Department issued to Petitioner Health Care Coverage Determination Notices informing Petitioner that effective October 1, 2019, Petitioner was approved for MA benefits subject to a monthly deductible of \$796. Exhibit A, pp. 32-37.
6. On November 13, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to her MA, FAP, and SER benefits.

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).

In this case, Petitioner objects to the Department's actions taken with respect to Petitioner's ongoing FAP and MA benefits cases as well as a SER application.

SER ISSUE

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

On May 6, 2019, Petitioner applied for SER for assistance with paying her utility bills. After providing verifications to the Department, the Department issued to Petitioner a May 13, 2019 State Emergency Relief Decision Notice informing Petitioner that her application was approved subject to certain conditions. Relevant to the instant case,

Petitioner was required to pay a copay of \$208.64 in order to trigger the Department's obligation to pay any portion of the amount conditionally approved. Specifically, the document stated "[n]o DHS payment(s) will be made for any service(s) until you provide proof that you made your payment(s) shown above. If verification of your payment is not returned by 06/04/2019 the DHS payment(s) will not be made and you will need to reapply."

A SER payment can only be authorized if the SER payment will resolve the emergency. ERM 208 (June 2019), p. 1. A household may receive one SER payment for heat and one for non-heat electricity, up to the SER cap, each fiscal year. ERM 301 (March 2019), p. 1. The SER cap for each service is \$850. ERM 301, p. 12. If the SER maximum does not resolve the emergency, the client must contribute towards the cost of resolving the emergency. ERM 208, p. 3. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208, p. 3. Before authorizing the Department's portion of the cost of services, the Department must verify that the copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 208, p. 5.

There are no income copayments for SER energy services. ERM 208, p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be income eligible, the group's monthly income cannot exceed the standard for SER energy services, which for a group of one is \$1,518. ERM 208, pp. 1, 6. If the income exceeds the limit, the request must be denied. ERM 208, p. 1.

Petitioner was clearly informed that the Department's payment of the approved amount was conditional amount Petitioner making the payment to the service provider and providing the Department with proof of the same. Petitioner acknowledged during the hearing that she received the May 13, 2019 State Emergency Relief Decision Notice informing her of those conditions. Petitioner failed to fulfill those conditions, resulting in the Department refusing to issue its portion of the award. The Department's action was correct as Petitioner admittedly did not provide proof of the payment of her portion.

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 declined to issue the conditionally approved SER payment due to Petitioner's failure to provide proof that she made the required copayment by the deadline.

FAP ISSUE

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 objects to the Department's determination that Petitioner was eligible for \$█ per month in FAP benefits, effective October 1, 2019. Included in Notice of Case Action informing Petitioner of the Department's determination was a budget showing the factors that went into calculating Petitioner's monthly FAP benefits. The budget shows that the Department factored in monthly unearned income of \$1,191 and housing costs of \$180, both of which Petitioner confirmed to be correct. The budget also included a standard deduction of \$161 and the heat and utility (h/u) standard of \$518.

Petitioner acknowledged the unearned income amount. The standard deduction of \$161 was then taken out, resulting in adjusted gross income of \$1,030. RFT 255 (October 2019), p. 1. Petitioner did not report any child care, medical, or child support expenses. Thus, those deductions are not applicable.

However, Petitioner is eligible for the excess shelter deduction. The Department budgeted housing costs of \$180. Petitioner was also eligible for the h/u standard of \$518. RFT 255, p. 1. Adding the expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$698. The excess shelter deduction is calculated by subtracting from the \$698 one half of the adjusted gross income of \$1,030, which is \$515. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$183. Petitioner's net income of \$847 is calculated by subtracting the excess shelter deduction (\$183) from the adjusted gross income (\$1,030), which is what the Department properly found. Exhibit A, p. 31.

The Food Assistant Issuance Table shows \$█ in benefits for \$847 net income for a household of one. RFT 260 (October 2019), p. 12. This is the amount determined by the Department and is correct.

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 determined Petitioner's eligibility for FAP benefits, effective October 1, 2019, ongoing.

MA ISSUE

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.

Petitioner objects to the Department's determination that she is eligible for MA benefits from the Department subject to a \$796 monthly deductible, effective October 1, 2019. Petitioner is a single woman who is [REDACTED] years old.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. AD-Care is a Supplemental Security Income (SSI)-related full-coverage MA program. BEM 163 (July 2017), p. 1. As Petitioner lives alone, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), pp. 7-8. Petitioner's total income consists of unearned income of \$1,191 per month in unearned income. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). BEM 163, p. 2; BEM 541 (July 2019), p. 3. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. The monthly income limit for AD-Care for a one-person MA group is \$1,061 (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2019), p. 1; BEM 541, p. 3. Because Petitioner's monthly household income substantially exceeds \$1,061, the Department properly determined Petitioner to be ineligible for MA benefits under the full-coverage AD-Care program.

Petitioner may still be eligible for MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p. 1. As stated above, Petitioner's SSI-related MA group size is one. Petitioner's net income is \$1,171 (gross income reduced by a \$20 disregard). BEM 541, p. 3.

The deductible is the amount that the client's net income (less any allowable needs deductions) exceeds the applicable G2S protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105 (April 2017), p. 1; BEM 166, pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is \$375 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$375. BEM 545 (July 2019), pp. 2-3.

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, there is no evidence

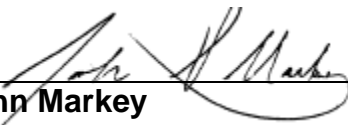
that Petitioner is responsible for costs of living in an adult foster care home or home for the aged. Petitioner does not pay any medical premiums either. Petitioner's net income of \$1,171 reduced by the \$375 PIL equals \$796. That is what the Department concluded.

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 determined Petitioner's MA eligibility, effective October 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.

JM/jaf



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 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 (via electronic mail)

Deborah Little
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