



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]

Date Mailed: January 22, 2020
MOAHR Docket No.: 19-013142
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 January 13, 2020 from Detroit, Michigan. Petitioner was represented by Authorized Hearing Representative [REDACTED] who is also Petitioner's son. Also appearing on behalf of Petitioner was Petitioner's daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Karen Smalls, Assistance Payments Supervisor, and Gloria Moon, Assistance Payments Worker. During the hearing, two multi-page packets of documents were offered and admitted into evidence as Exhibit A, pp. 1-46, and Exhibit 1, pp. 1-69.

ISSUE

Did the Department properly apply Petitioner's submitted medical bills to Petitioner's Food Assistance Program (FAP) case?

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 over 65 and is in a household of one.
2. Petitioner was an ongoing FAP recipient.
3. On April 11, 2019, Petitioner submitted to the Department a completed Redetermination along with multiple pages of medical documents, including doctor's orders concerning medical expenses and receipts for those expenses. Exhibit A, pp. 31-45.
4. Those medical expenses were not factored into the budget for 2019.

5. On multiple occasions throughout 2019, Petitioner faxed to the Department medical documentation showing doctor's orders, receipts, and prices for the items ordered. The Department rejected nearly all of the submissions without informing Petitioner of which ones were accepted or rejected or the reasons for rejection.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's delay in processing Petitioner's submitted 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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

In this case, Petitioner sought a hearing regarding the Department's delay in processing Petitioner's reported medical expenses and refusal to factor those expenses into her FAP budget from April 2019 through December 2019. 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 for each month from March 2019 through December 2020. Petitioner's grievance with the Department's processing of her reported medical expenses has been ongoing since her 2019 redetermination. Prior to the 2019 redetermination, Petitioner's annual medical expenses would be tallied up during the annual redetermination, divided by 12, then applied as an ongoing

expense for each month in the newly redetermined budget. When Petitioner attempted to do this same process for the 2019 redetermination, the Department simply ignored Petitioner's submissions for months on end. Despite Petitioner repeatedly inquiring and submitting further and further documentation to substantiate the expenses, the Department refused to factor most of them into the equation.

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 (April 2019), pp. 8-12. At redetermination, the Department must estimate an individual's medical expenses for the benefit period and base the estimate off of verified allowable medical expenses, available information about the person's medical condition and health insurance, and changes that can reasonably be anticipated to occur during the benefit period. BEM 554, pp. 8-9.

The procedure employed by the Department in this case was contrary to policy and inevitably led to the dispute that exists between the parties. When Petitioner submitted medical expenses along with doctor's notes and receipts at the 2019 redetermination, the Department should have estimated Petitioner's medical expenses going forward through the new benefit period. Based on the information submitted, the expenses were regular, ordered by a doctor, and verified with receipts.

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 neglected to factor submitted medical expenses into Petitioner's FAP budgets from April 2019 through December 2019.

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 submitted medical bills, ensuring that all reported and verified medical expenses are properly factored into Petitioner's FAP budget;

2. If any submitted bill is deemed to be insufficiently verified, inform Petitioner of the reason for the decision, tell Petitioner how to cure the alleged deficiency, and allow Petitioner the opportunity to provide verifications;
3. If Petitioner is eligible for additional FAP benefits in any of the relevant months, promptly issue a supplement for each month; and
4. Notify Petitioner in writing of its decision.

JM/tm



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

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI
48033

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
Oakland County AP Specialist