



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: June 11, 2020
MOAHR Docket No.: 20-003047
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three way hearing was held on June 11, 2020, from Clawson, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Candice Benns, Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance (FAP)

Did the Department properly determine Petitioner's Medical Assistance (MA) spenddown deductible amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner is a disabled individual and receives RSDI in the amount of \$1,176.00 as confirmed by Petitioner at the hearing.
2. The Department sent Petitioner a redetermination on February 4, 2020 scheduling an interview for March 5, 2020. Only the first page of the redetermination was included in the hearing packet. Exhibit A, p. 13
3. The Department sent the Petitioner a Notice of Case Action dated March 10, 2020 approving her for \$16.00 a month in FAP benefits effective April 1, 2020. Only the first page of the Notice was provided with the hearing packet. Exhibit A, p.5.

4. The Department provided no food assistance budget with its hearing packet and no information was available or presented for review at the hearing regarding the FAP benefit calculation other than income.
5. The Department did not present any information regarding the Petitioner's spenddown and no budget was presented as part of the hearing packet or at the hearing. The Department Hearing Summary did not address the Medical Assistance spenddown issue raised by Petitioner's hearing request. Exhibit A, p. 1.
6. The Petitioner filed a timely hearing request on March 30, 2020 requesting a hearing regarding her FAP benefit amount and a review of her MA spenddown amount.

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.

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.

In this case, the Hearing Packet dated April 15, 2020 prepared by the Department and provided at the hearing was inadequate and did not present any evidence regarding the calculation of the FAP benefits as no budget or housing expense excess shelter calculations were included and the MA spenddown amount issue stated in Petitioner's request for hearing was not addressed at all. In addition, the Notice of Case Action for FAP benefits contained the first page only and was incomplete as was the redetermination document.

Petitioner, who is elderly and disabled in her hearing request asked for a hearing regarding her FAP benefit amount and also a review of her MA spenddown amount. At

the hearing, because the Department did not present sufficient information in the Hearing Summary and attached materials so a due process hearing could be held, it is determined that the Department failed to meet its burden of proof to demonstrate that the FAP benefits were calculated correctly and because no information was provided or presented regarding the Department's spenddown determination. The Hearing Facilitator was not able to present documentation regarding the two issues raised by the hearing request after an opportunity to do so, as the preparer of the Hearing Summary failed to include the bare minimum of information so the FAP and MA benefits could be reviewed and analyzed. In addition, the Petitioner did not receive a copy of the Hearing Summary and hearing packet information.

Department policy in BAM 600 governs the hearing process and Department responsibilities. It requires the Department determine the nature of the complaint so the issue(s) may be fully addressed and in addition it requires the DHS 3050 Hearing Summary, to include but not limited to the following:

- Clear, concise statement of the case action(s) taken, including all programs involved in the case.
- Chronological summary of events, containing facts that led to the action(s) taken.
- Identification of any verifications supporting the action(s) taken.
- Citation of policy that supports the action(s) taken.
- Correct address of the client and the AHR.
- Complete hearing packet to include, but not limited to, the following:
 - DHS-1605, Notice of Case Action.
 - DHS-1606, Health Care Coverage Determination Notice.
 - A narrative of the meaningful prehearing conference offer and outcome and the DHS-1560, Notice of Prehearing Conference.
 - A copy of all documents the Department intends to offer as exhibits at the hearing.

- Numbering of the hearing packet in the lower right corner of each page. BAM 600(January 2020) p. 9-10.

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 did not present sufficient evidence regarding its determination of the Petitioner's FAP benefit amount so a review could be made at the hearing and failed to present any evidence regarding its determination of Petitioner's MA spenddown amount calculation.

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. The Department shall make a thorough and complete review of the Petitioner's FAP benefit calculations and FAP benefit amount and determine whether all the applicable income, and expenses including shelter and medical expenses are included.
2. The Department, only if applicable and in accordance with the Department policy shall issue a FAP supplement if after review Petitioner is determined otherwise eligible for same.
3. The Department shall make a thorough and complete review the Petitioner MA spenddown amount and determine if the Petitioner has submitted medical expenses and apply them to the spenddown amount as appropriate.
4. The Department shall provide the Petitioner written notice of its determination for FAP and MA.

LMF



Lynn M. Ferris
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

Via Email:

MDHHS-Wayne-49-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED], MI [REDACTED]