



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 23, 2020
MOAHR Docket No.: 20-005875
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 15, 2020. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-42.

ISSUES

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 August 11, 2020, Petitioner applied for multiple assistance programs, including FAP and MA. (Exhibit A, pp. 3-18)
2. On August 12, 2020, a Verification Checklist was issued with a due date of August 24, 2020, requesting verification of: mortgage, vehicle value, checking account, residential address, and savings account. (Exhibit A, pp. 19-21)

3. On August 12, 2020, the Department received verification of the property tax records. (Hearing Facilitator Testimony)
4. On August 19, 2020, a telephone interview was completed. Petitioner reported that there are medical, property taxes/insurance, and utility expenses. (Exhibit A, pp. 22-24)
5. On August 27, 2020, a Notice of Case Action was issued to Petitioner, in part, stating FAP was approved for August 11, 2020 through August 31, 2020, with a monthly allotment of \$10.00, and for September 1, 2020 through July 31, 2022, with a monthly allotment of \$16.00. (Exhibit A, pp. 26-31)
6. On August 27, 2020, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied based on a failure to provide required verifications. (Exhibit A, pp. 34-38)
7. On September 8, 2020, the Department received utility bills. (Hearing Facilitator Testimony)
8. On September 8, 2020, Petitioner requested a hearing contesting the Department's FAP and MA determinations. (Exhibit A, p. 39)

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).

FAP

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.

BAM 115 addresses application processing, including the FAP begin date at application:

Begin Date At Application

The FAP begin date depends on the group's eligibility and whether the 30-day standard of promptness (SOP) has been met; see Sub-sequent Processing in this item. Use the following criteria:

- When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is either of the following:
 - The application date if the group is eligible for the application month (even if proration causes zero benefits).
 - The first day of the month after the application month if that is when the group becomes eligible.
- When the 30-day SOP is not met and the group is at fault for the delay, the begin date is the date the group meets all application requirements; see FAP Fault Determination in this item.

Exception: See BEM 610 to determine the begin date for migrant/seasonal farmworkers.

BAM 115, July 1, 2020, pp. 29-30

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits. BEM 503, August 1, 2020, pp. 29-31 and 35-37. The Department counts the gross benefit amount as unearned income. BEM 503, pp. 29 and 35.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2020), p. 13. Heat and utility expenses can also be included as allowed by policy. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses; for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. Verified allowable medical expenses for a senior/disabled/disabled veteran (SDV) in the FAP group are also considered. BEM 554, pp. 8-12.

The net monthly income limit for a FAP group size of two is \$1,410.00 effective October 1, 2019, and increases to \$1,437.00 effective October 1, 2020. RFT 250, October 1, 2029, p. 1 and RFT 250, October 1, 2020, p. 1

Traditional categorically eligible groups automatically meet the asset and income limits for FAP. The Department computes net income for all categorically eligible groups. One and two member categorical FAP groups that exceed the gross and/or 100 percent net income limit, but whose gross income is at or below 200 percent of the poverty level, and who meet the asset limit and all other FAP eligibility requirements are automatically eligible for the minimum benefit amount. Benefits are prorated in the initial month of application and benefits will not be issued if the issuance is less than \$10. BEM 213.

January 1, 2020, pp. 1 and 3-4. The minimum benefit amount for a group size of two is \$16.00. RFT 260, October 1, 2019.

Petitioner's FAP application indicated the only income was SSA issued benefits; there is a shelter expense; there is a heating and cooling utility expense; and there are medical expenses for health insurance. (Exhibit A, pp. 3-18) The Department verified the SSA issued gross benefit amounts for Petitioner and her spouse. This showed gross benefit amounts of \$1,503.60 and \$970.60. (Exhibit A, pp. 23 and 25; Hearing Facilitator Testimony) During the August 19, 2020 telephone interview, Petitioner reported that there are medical, property taxes/insurance, and utility expenses. (Exhibit A, pp. 22-24) Accordingly, the Department budgeted a monthly portion of the property taxes, the full heat/utility (h/u) standard, and the medical expenses. (Exhibit A, pp. 27 and 32-33)

The Hearing Facilitator explained that Petitioner's FAP group exceeded the net monthly income limit. Their budgeted net income was [REDACTED] and the net income limit as of October 1, 2020 was \$1,437.00. However, because they are categorically eligible, Petitioner's FAP group is automatically eligible for the minimum benefit amount, in this case \$16.00. For the application month, FAP benefits were prorated based on the application date, in this case \$10.00. (Exhibit A, p. 32; Hearing Facilitator Testimony) Accordingly, based on the available information, the Department properly determined Petitioner's eligibility for FAP.

Petitioner testified that she and her spouse receive less in SSA issued benefits than the amounts the Department budgeted. Petitioner also indicated her bills are more than the Department budgeted for utility expenses. (Exhibit A, p. 39; Petitioner Testimony) It was uncontested that the Medicare premium is taken out of their SSA benefit amounts. However, the above cited BEM 503 policy requires the Department to count the gross benefit amount as unearned income. Further, the above cited BEM 554 policy requires the Department to use standards for the utility expenses rather than the amounts from Petitioner's utility bills.

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.

MA

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 general, Verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, April 1, 2017, pp. 1-3.

For MA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit up to two times when specific conditions are met. Verifications are considered timely if received by the date they are due. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 7-8.

On August 12, 2020, a Verification Checklist was issued with a due date of August 24, 2020, requesting verification of: mortgage, vehicle value, checking account, residential address, and savings account. (Exhibit A, pp. 19-21) On August 12, 2020, the Department received verification of the property tax records. The Department did not receive the rest of the requested verifications. The asset verifications (bank accounts) were needed to determine eligibility for MA. Accordingly, on August 27, 2020, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied based on a failure to provide required verifications. (Exhibit A, pp. 34-38; Hearing Facilitator Testimony)

Petitioner's testimony was inconsistent regarding whether she received the Verification Checklist. Petitioner noted that during the phone interview the worker did not tell her she needed to submit proof of her bills. Petitioner also acknowledged that she sometimes gets things confused. (Exhibit A, p. 39; Petitioner Testimony) It is noted that the phone interview would have related to the FAP portion of Petitioner's application rather than the MA. Similarly, the utility expenses relate to FAP rather than MA.

In this case, the Department followed the above cited BAM 130 policy by sending her the Verification Checklist notifying her what verifications were required, how to obtain them, and the due date. There was no evidence that Petitioner requested assistance in obtaining the verifications. Ultimately, the Department properly issued the denial notice when the time-period given had elapsed and the needed verifications had not been submitted.

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 denied Petitioner's August 11, 2020, application for MA.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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

Carisa Drake
Calhoun County DHHS – via electronic
mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

Petitioner

[REDACTED] – via first class mail
[REDACTED], MI [REDACTED]