



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: January 27, 2023
MOAHR Docket No.: 22-006017
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 Zoom Videoconference hearing was held on January 19, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Sara Estes, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, as re-marked, pp. 1-67.

ISSUE

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

FINDINGS OF FACT

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

1. Effective October 1, 2022, Petitioner's Social Security Administration (SSA) issued Supplemental Security Income (SSI) benefits ended. (Exhibit A, pp. 4 and 57-64)
2. Petitioner's SSI related MA benefits transitioned to the Terminated SSI MA category when his SSI benefits ended. (Exhibit A, pp. 4 and 57-64)
3. Petitioner's FAP case was due for Redetermination in October 2022.
4. On September 7, 2022, Petitioner submitted an online Redetermination form. (Exhibit A, pp. 14-17)

5. On September 28, 2022, Petitioner submitted a paper Redetermination form along with several verifications. (Exhibit A, pp. 18-29)
6. In processing the Redetermination, the Department noted a discrepancy regarding the reported shelter expenses and a deposit from [REDACTED] Credit Union. (Exhibit A, p. 3)
7. On October 21, 2022, a Verification Checklist was issued requesting verification of rent and unknown unearned income with a due date of October 31, 2022. (Exhibit A, pp. 33-39)
8. On October 26, 2022, Petitioner called the Department and clarified his rent amount, reported paying for air conditioning, and explained that because there is no [REDACTED] Credit Union in the area, he uses [REDACTED] Credit Union for deposits. (Exhibit A, p. 4)
9. On October 26, 2022, a Notice of Case Action was issued stating Petitioner's FAP was approved at \$124.00 per month effective November 1, 2022. (Exhibit A, pp. 40-42)
10. On October 31, 2022, the Department received a Shelter Verification form for Petitioner. The landlord reported Petitioner pays \$279.00 per month for rent, which includes heat, air conditioning, water/sewer, and trash. (Exhibit A, pp. 42-45)
11. On December 3, 2022, a system update was processed that updated Petitioner's income from SSA issued benefits. (Exhibit A, p. 4)
12. On December 3, 2022, a Notice of Case Action was issued stating Petitioner's FAP was decreased to \$79.00 per month effective January 1, 2023. (Exhibit A, pp. 46-48)
13. On [REDACTED] 2022, Petitioner applied for MA. (Exhibit A, pp. 49-53)
14. On December 7, 2022, a Health Care Coverage Determination Notice was issued to Petitioner denying the recent MA application because he is already eligible for MA. (Exhibit A, pp. 54-57)
15. On December 13, 2022, Petitioner filed a hearing request contesting the MA denial. (Exhibit A, pp. 7-9)
16. On December 16, 2022, Petitioner filed a hearing request contesting the FAP determination and reporting a rent increase. (Exhibit A, pp. 10-12)
17. On December 19, 2022, the Department redetermined Petitioner eligibility for FAP with the available updated information regarding shelter expenses. (Exhibit A, pp. 4-5 and 65-67)

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).

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.

The Department closes MA under the SSI category when SSA indicates SSI benefits are terminated. The Department continues the beneficiary's MA coverage until the redetermination is complete. BAM 220, October 1, 2022, p. 18. MA coverage is transferred to the Terminated SSI MA category while an ex-parte review is completed. BEM 150, July 1, 2021, p. 6.

In this case Petitioner's SSA issued SSI benefits ended effective October 1, 2022. (Exhibit A, pp. 4 and 57-64) Accordingly, Petitioner's SSI related MA benefits transitioned to the Terminated SSI MA category when his SSI benefits ended. (Exhibit A, pp. 4 and 57-64)

On [REDACTED] 2022, Petitioner applied for MA. (Exhibit A, pp. 49-53) On December 7, 2022, a Health Care Coverage Determination Notice was issued to Petitioner denying the recent MA application because he is already eligible for MA. (Exhibit A, pp. 54-57) The denial of this application was appropriate because Petitioner was already approved for MA.

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.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits such as Retirement

Survivors Disability Insurance (RSDI). BEM 503, October 1, 2022, pp. 29-31. The Department counts the gross benefit amount as unearned income. BEM 503, p. 29.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2022), p. 13. 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. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, p. 16. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22. Verified allowable medical expenses can also be considered for senior/disabled/veteran (SDV) FAP group members. BEM 554 pp. 8-13)

In this case, the Department redetermined Petitioner's eligibility for FAP including updates to his RSDI income and shelter expenses. When there was a discrepancy regarding shelter expenses, the Department property obtained verification. The full heat and utility standard was not included in the FAP budget based on the verification from Petitioner's landlord that heat and air conditioning expenses are included in his rent. (Exhibit A, pp. 3-4, 33-39, and 42-45)

Petitioner testified that he spoke with his landlord, who confirmed that she mistakenly reported air conditioning was included in his rent. Petitioner has a separate air conditioning unit. Petitioner will have the landlord provide an updated verification for his shelter expenses. (Petitioner Testimony) Once verification of the shelter expense is provided, the Department will be able to consider this expense in the ongoing FAP budget.

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 based on the information available at that time.

DECISION AND ORDER

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

CL/ML



Colleen Lack
Administrative Law Judge

