



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: June 15, 2018  
MAHS Docket No.: 18-003131  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 June 14, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Mary Strand, Family Independence Manager.

**ISSUES**

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit 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. On [REDACTED] 2018, Petitioner submitted an application for FAP and MA benefits.
2. Petitioner had unearned income in the form of Unemployment Compensation Benefits (UCB) in the weekly amount of \$390.
3. Petitioner stated he was not married and reported no other dependents.

4. On December 19, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was not eligible for MA benefits (Exhibit D).
5. On December 19, 2017, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the amount of \$15 per month effective December 1, 2017, ongoing (Exhibit E).
6. On March 19, 2018, Petitioner submitted a request for hearing disputing the Department's actions.

### **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.

In this case, Petitioner disputed the calculation of his FAP benefit amount. Petitioner submitted an application for FAP benefits on November 22, 2018. At the time of the application, Petitioner was receiving UCB. Petitioner alleged that the Department erred by continuing to include his UCB benefits in his FAP benefit calculation, as he stated the benefits had been exhausted as of January 14, 2018.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by

multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9.

The Department testified that it determined Petitioner's total monthly unearned income was \$1,677. The Department correctly multiplied Petitioner's weekly benefit amount of \$390 by the 4.3 multiplier. Therefore, the Department properly determined Petitioner's unearned income amount.

Petitioner alleged that he notified the Department of the loss of income that occurred on January 14, 2018. Petitioner stated he submitted a Supplemental Questionnaire which notified the Department of the loss of income. Additionally, Petitioner stated he submitted documentation verifying the loss of income. Petitioner stated the documentation he submitted providing information regarding his UCB benefits shows that he is no longer eligible for UCB (Exhibit C). Petitioner contended that the Department improperly continued to budget the income in his FAP benefit calculation after the loss of income.

For FAP cases, the Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2018), p. 7. Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505, p. 11.

The Department testified that the Supplemental Questionnaire did not provide effective notice of the loss of income. The Department stated it was not clear Petitioner was reporting the loss of income. The Department also stated the documentation Petitioner provided showing the loss of income was "redacted."

Petitioner did not provide any documentation to establish that he properly reported and verified his loss of UCB income. Petitioner had a copy of the Supplemental Questionnaire that was submitted to the Department, but the document was not provided during the hearing for review. Additionally, the portion of document that Petitioner stated shows he is no longer eligible for UCB appears as though it was highlighted prior to being faxed, causing it to look redacted. Although Petitioner may not have intended to redact that portion of the document, the information is illegible. Therefore, Petitioner failed to establish that the loss of income was properly reported and verified. Thus, the Department acted in accordance with policy when it continued to budget the income in Petitioner's FAP benefit amount.

## **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 this case, Petitioner argued that the Department improperly determined he was ineligible for MA benefits under the Health Michigan Plan (HMP) program. Petitioner argued that the Department improperly annualized his UCB benefits when determining his eligibility for HMP benefits.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and did not report to the Department that he claimed any dependents. Therefore, for HMP purposes, the Department properly concluded he has a household size of one. BEM 211 (January 2016), pp. 1-2.

133% of the annual FPL in 2017 for a household with one member is \$16,039.80. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,386.90. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$16,039.80 annually or \$1,386.90 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department used the documentation submitted by Petitioner showing that he has a weekly UCB benefit amount of \$390 to calculate his income (Exhibit C). At that time, the Department was not aware of Petitioner's other income sources that were reported at the hearing and only utilized his UCB to determine his eligibility. The Department testified that Petitioner's annual income, based solely on the UCB benefits, was \$20,124. Petitioner argued that the Department erred in annualizing the benefits over an

entire year, as there is a maximum number of weeks in which an individual can collect UCB. Petitioner alleged he was due to exhaust his UCB on January 14, 2018.

Effective January 1, 2014, when determining eligibility for new applicants of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

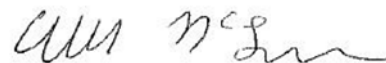
[http://www.michigan.gov/documents/mdch/SPA\\_13\\_0110\\_MM3\\_MAGI-Based\\_Income\\_Meth\\_446554\\_7.pdf](http://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf)

Although the Department testified that Petitioner's annual income exceeded the income limit under the HMP program, financial eligibility for a new applicant is based on the current monthly income and family size. Petitioner applied for MA benefits in November 2017. In November 2017, Petitioner was receiving UCB benefits in the weekly amount of \$390. Petitioner's income for November 2017 was \$1,560, which exceeds the monthly income limit of \$1,386.90 under the HMP program for his group size. Therefore, the Department acted in accordance with policy when it denied Petitioner's application for MA benefits.

### **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 acted in accordance with Department policy when it determined Petitioner's FAP eligibility and denied his MA application. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



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**Ellen McLemore**  
Administrative Law Judge  
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS- Oakland-4-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
BSC4-Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

[REDACTED]  
MI [REDACTED]