



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: September 6, 2018
MAHS Docket No.: 18-007600
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 August 21, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Shanna Ward, Eligibility Specialist. During the hearing, 35 pages of documents were offered and admitted as Exhibit A, pp. 1-35.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case?

Did the Department properly close Petitioner's Medicaid (MA) benefits 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 was an ongoing FAP recipient with an FAP group size of one.
2. Petitioner was an ongoing MA recipient under the Healthy Michigan Plan (HMP).
3. On January 3, 2018, the Department issued to Petitioner a Time Limited Food Assistance Notice informing Petitioner that he must meet certain work-related requirements in order to remain eligible for FAP benefits. The notice informed

Petitioner that he may only receive FAP benefits for three months where he did not meet the requirements. Exhibit A, pp. 5-6.

4. The Department credited Petitioner with Timely Limited Food Assistance (TLFA) countable months for March 2018, April 2018, and May 2018. Exhibit A, pp. 7-12.
5. On May 30, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case was closed, effective June 1, 2018, for using three countable TLFA months. Exhibit A, pp. 13-14.
6. On June 7, 2018, Petitioner filed an application for FAP benefits. Exhibit A, pp. 17-22.
7. On June 25, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his application for FAP benefits was denied for excess gross income. Exhibit A, pp. 26-29.
8. On July 9, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was being closed, effective August 1, 2018, because Petitioner's income was too high. Exhibit A, pp. 30-33.
9. On July 17, 2018, Petitioner submitted a request for hearing to the Department contesting the closure of both his FAP and MA cases.

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 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 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.

FAP CLOSURE

In this case, Petitioner requested a hearing to dispute the Department's decision to close Petitioner's FAP benefits case. Effective January 1, 2018, individuals in Time Limited Food Assistance (TLFA) counties, such as Ingham County, must meet specific TLFA work requirements as a condition of FAP eligibility. BEM 620 (January 2018), p. 1. All FAP individuals age 18 through 49 are TLFA unless deferred. BEM 620, p. 1. Failure to meet the work requirements limits the individual's FAP eligibility to three months within a 36-month period. BEM 620, p. 1. TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. BEM 620, p. 1.

In order for an FAP benefit month to not be countable, a TLFA individual must perform one of the following: (i) work at least 80 hours monthly (20 hours/week on average); (ii) participate in Michigan Works! Agency (MWA) 80 hours monthly; (iii) work and participate in MWA combined for 80 hours monthly; (iv) participate in MWA-assigned Workfare with the number of hours worked at least equal to the FAP benefit divided by the \$8.90 minimum wage; or (v) engage in self-initiated community service activities for a non-profit organization with the number of hours worked at least equal to the FAP benefit divided by the \$9.25 minimum wage. BEM 620, pp. 1-3.

The Department testified that Petitioner did not meet the work requirements in March, April, and May of 2018. Thus, according to the Department, once Petitioner failed to fulfill the requirements for the third month, Petitioner's FAP case was properly closed for failing to meet the TLFA work requirements. Petitioner agreed that he was not working the required 80 hours per month in March and May of 2018. However, Petitioner asserted that he did in fact meet the requirements and comply with certification requirements for April of 2018. Petitioner's testimony was un rebutted, and there is nothing in the record to support the Department's conclusion that Petitioner failed to meet the work requirement. Thus, based on the record, the Department did not follow policy when it determined that Petitioner failed to meet the work requirements for April of 2018. Because Petitioner only had two months where he did not meet the TLFA work requirements, the Department did not act in accordance with Department policy when it closed Petitioner's FAP case, effective June 1, 2018.

FAP APPLICATION DENIAL

Petitioner also objected to the Department's decision to deny the application he filed subsequent to the closure of his FAP case. On the application, Petitioner indicated that he had anywhere from [REDACTED] to [REDACTED] in monthly gross income. Exhibit A, pp. 17-22. To be eligible for FAP benefits with a group size of one, an applicant must have gross income of less than \$1,307 per month. RFT 250 (October 2017), p. 1. Petitioner's reported gross income was substantially more than the monthly income limit. Thus, the Department followed policy and law when it denied Petitioner's application for FAP benefits based on Petitioner's monthly income exceeding the limit for eligibility.

Petitioner's income exceeding the gross income limit renders the Department's previous improper closure moot. While the Department did not follow Department policy when closing Petitioner's FAP case, Petitioner was not eligible for FAP benefits anyways based on his income.

MA CASE CLOSURE

Petitioner objects to his MA case being closed for exceeding the income limit and asserts that the Department grossly overestimated his income. The Department redetermined Petitioner's annual income by taking the income Petitioner reported on his June 7, 2018 FAP application and annualizing what was reported. Petitioner, however, works in seasonal jobs and has wildly fluctuating income throughout the year. Petitioner informed his case worker about the seasonal nature of his employment and that it was inappropriate to annualize his most lucrative month to come up with an annual income that is substantially higher than his income during any recent year.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1.

Petitioner, who is under age 64, not enrolled in Medicare and not the caretaker of any minor children, is potentially eligible for MA under the HMP. An individual is eligible for HMP if his household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Petitioner's household size for MAGI purposes is one. 133% of the annual FPL in 2018 for a household with one member is \$16,146. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3-4. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income

based on projected annual household income . . . for the remainder of the current calendar year.”

At the hearing, the Department stated that it relied on the information contained in the FAP application Petitioner provided on June 7, 2018, to calculate Petitioner’s projected annual income. Specifically, the Department stated that it considered monthly gross income from Petitioner’s various reported jobs and annualized it out to an annual income of [REDACTED], which is in excess of the \$16,146 limit for HMP eligibility. While Petitioner did not dispute that he reported gross monthly taxable income from multiple sources that would, if annualized, result in an annual income of greater than \$16,146, Petitioner disputed that his annual income is, in fact, that high. Petitioner asserted that one of his jobs is coming to an end at the conclusion of the baseball season and that another of his jobs is sporadic, at best. Considering the impending loss of one of his jobs and the inconsistent nature of the rest of Petitioner’s income, Petitioner believes his income would be below \$16,146.

Effective January 1, 2014, when determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the remaining months of the current calendar year. The State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or family size. (See Medicaid State Plan Amendment TN No: MI-13-0110-MM3 https://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf and http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5080-108153--,00.html).

Therefore, because the Department calculated Petitioner’s [REDACTED] projected annual income based on a 12-month projection and not based on his projected annual income for the remaining months of the current calendar year, the Department did not act in accordance with Department policy when it determined that Petitioner had excess income for HMP eligibility. There is no evidence in the record to support a finding that Petitioner’s annual income exceeds the income limits.

DECISION AND ORDER

The Department’s decision is **AFFIRMED** in part and **REVERSED** in part. Petitioner was properly held ineligible for FAP benefits, effective June 1, 2018. Thus, the Department is **AFFIRMED** in that respect.

Petitioner’s MA case was improperly closed effective August 1, 2018. Likewise, the Department erred in assessing a Notice of Time Limited Food Assistance Countable Month for the month of April of 2018.

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 delete the Notice of Time Limited Food Assistance Countable Month for the month of April 2018 from Petitioner's benefits file;
2. The Department shall reinstate Petitioner's MA case under the HMP category effective August 1, 2018;
3. The Department shall provide Petitioner with MA coverage from August 1, 2018, ongoing, in accordance with Department policy; and
4. The Department shall provide Petitioner with written notice of its determination.



JM/dh

John Markey
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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

EQAD via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]