



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: December 3, 2018
MAHS Docket No.: 18-009931
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 October 25, 2018, from Lansing, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shanna Ward, Eligibility Specialist. During the hearing, two packets of documents were offered and admitted as Exhibit A, pp. 1-32 and Exhibit B, pp. 1-6.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

Did the Department properly deny Petitioner's application for Medicaid (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. On August ██████ 2018, Petitioner submitted to the Department an application for MA and FAP benefits. Exhibit A, pp. 2-10.
2. On August ██████ 2018, the Department issued to Petitioner a Health Care Determination Notice informing Petitioner that she was not eligible for MA because her annual income exceeded the income limit. Exhibit A, pp.11-14.

3. On August █ 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting information relevant to Petitioner's eligibility for FAP, including income and asset information. Exhibit A, pp. 15-16.
4. On August █ 2018, Petitioner provided to the Department verifications of her income from employment. Exhibit A, pp. 17-19.
5. On August █ 2018, the Department issued to Petitioner Notice of Case Action informing Petitioner that she was not eligible for FAP because her annual income exceeded the income limit. Furthermore, the Notice of Case Action stated that her income exceeded the income limit for MA under the Healthy Michigan Plan (HMP). Exhibit A, pp. 25-28.
6. On September █ 2018, Petitioner submitted to the Department a request for hearing challenging the Department's denial of Petitioner's application for MA and FAP benefits.

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.

Petitioner submitted an application for FAP and MA benefits on August █ 2018. After receiving information regarding Petitioner's income, the Department determined that Petitioner had exceeded the income eligibility limits for both programs and issued notices denying Petitioner's application. Petitioner objects to the Department's calculation of her income with respect to both programs and believes that she is eligible.

FAP DENIAL

In the present case, the Department determined that Petitioner had \$ [REDACTED] in monthly earned income from her jobs with Kroger and St. Vincent DePaul society. Exhibit B, pp. 5-6.

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. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2017), pp. 6-7.

The Department determined Petitioner's monthly earned income amount was \$ [REDACTED] Exhibit B, pp. 5-6.

The Department will reduce the gross countable earned income by 20 percent using what is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$ [REDACTED] Petitioner's FAP benefit group size of one justifies a standard deduction of \$154. RFT 255 (August 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses. Accordingly, Petitioner's adjusted gross income was properly calculated at \$ [REDACTED]

Petitioner was not eligible for the excess shelter deduction. Petitioner had verified housing expenses of \$ [REDACTED] and was only eligible for the trash/garbage removal standard of \$20. BEM 554, p. 23. Thus, Petitioner's total housing expenses were \$ [REDACTED] The excess shelter deduction is calculated by subtracting from the total shelter expenses (\$ [REDACTED] one half of the adjusted gross income (\$ [REDACTED] The remaining amount, if greater than \$0, is the excess shelter deduction. In this case, the excess shelter deduction was properly found to be \$0.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. As there was no excess

shelter deduction, the Department properly found that Petitioner's net income was the same as her adjusted gross income of \$[REDACTED]. A chart listed in RFT 250 is used to determine whether a FAP group is net income eligible. RFT 250 shows a net income limit of \$1,005 per month for a group size of one. Based on Petitioner's net income and group size, Petitioner exceeded the net income limit for FAP purposes. Therefore, the Department properly denied Petitioner's FAP application.

MA DENIAL

Income is calculated differently with respect to MA under the HMP. HMP is a Modified Adjusted Gross Income (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 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.

133% of the annual FPL in 2018 for a household with one member is \$16,146.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.20. 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.

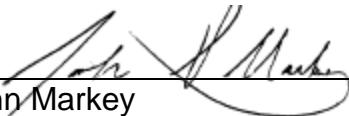
In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, 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 2018 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

When averaging the pay statements provided by Petitioner's (as mentioned above) and multiplying by 52 (the number of checks Petitioner would receive in a year, as she is paid weekly), Petitioner's income exceeds the limit under the HMP program. Therefore, the Department acted in accordance with policy when it closed Petitioner's MA benefit case.

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 policy when it determined Petitioner was not income eligible for FAP and MA benefits. Accordingly, the Department's decision is **AFFIRMED**.

JM/nr



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- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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