



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: February 21, 2019  
MAHS Docket No.: 18-013937  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 February 21, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

**ISSUE**

Did the Department properly determine that Petitioner was eligible for Food Assistance Program (FAP) benefits in the amount of \$[REDACTED] per month effective January 1, 2019?

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA) benefits effective January 1, 2019.

**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 November 26, 2018, Petitioner submitted a completed Redetermination and attached her current paystubs.
2. The Department redetermined Petitioner's eligibility for FAP and MA benefits.
3. On December 12, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that she had been approved for FAP benefits in the amount of \$[REDACTED] per month effective January 1, 2019.

4. On December 12, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she was ineligible for MA benefits effective January 1, 2019.
5. On December 26, 2019, Petitioner filed 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).

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.

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 her 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 2016 for a household with one member is \$16,146.20. [https://www.acf.hhs.gov/sites/default/files/ocs/2018\\_hhs\\_poverty\\_guidelines.pdf](https://www.acf.hhs.gov/sites/default/files/ocs/2018_hhs_poverty_guidelines.pdf). Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.20.

In this case, Petitioner submitted a Redetermination and paystubs on November 26, 2018. Based upon the paystubs submitted, the Department determined Petitioner's household income to have exceeded the allowable limit of \$16,146.20.

Prospecting income means arriving at a best estimate of the person's income. Prospect income when estimating income to be received in a processing or future month. The best estimate may not be the exact amount of income received. Some of the reasons income fluctuates is because:

- The number of hours worked in a month may fluctuate.
- The amount of tips may vary from payday to payday.

Under Department policy, the following guidelines for prospecting income are to be used:

- For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings.
- Paystubs showing year-to-date earnings and frequency of pay are usually as good as multiple paystubs to verify income.
- A certain number of paystubs is not required to verify income. If even one paystub reflects the hours and wages indicated on the application, that is sufficient information.
- If a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs... BEM 530 (January 2014), pp. 3-4.

Further, the Department testified that it used the income on each separate paystub to determine Petitioner's eligibility for FAP benefits. When considering FAP benefits, the Department is to prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. BEM 505 (October 2017), p. 3. In this case, Petitioner testified that she provided input to the Department in an effort to establish and estimate. Specifically, Petitioner testified that in March 2018, she was granted leave from her employment under the Family Medical Leave Act. As such, Petitioner indicated that her

income fluctuates. Petitioner further testified that she provided a copy of the authorization for the leave to her worker shortly after the leave was granted.

Petitioner provided paystubs showing year-to-date pay information which showed that as of November 30, 2018, she earned \$ [REDACTED] working at [REDACTED] and that as of November 23, 2018, she earned \$ [REDACTED] working with [REDACTED]. Petitioner further testified that she earned \$ [REDACTED] for the entire year of 2018 which would be consistent with the earnings reflected on her year-to-date paystubs. Because Petitioner provided the Department with her paystubs depicting the year-to-date-totals and the Department failed to consider this information, it is found that it improperly determined Petitioner's eligibility for FAP and MA benefits. It should be noted that at the Department is currently budgeting Petitioner's rent expense as \$ [REDACTED]. Petitioner confirmed that she pays considerably less than this amount and has been paying the lesser amount since May 2018.

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 did not act in accordance with Department policy when it determined that Petitioner was eligible for \$ [REDACTED] per month in FAP benefit and also when it determined that Petitioner was ineligible for MA benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for FAP and MA benefits effective January 1, 2019;
2. If Petitioner was eligible for supplements, issue FAP and MA supplements Petitioner was eligible for but did not receive; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



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**Jacquelyn A. McClinton**  
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 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-Macomb-12-Hearings  
BSC4 Hearing Decisions  
EQAD  
[REDACTED]  
[REDACTED]  
[REDACTED]  
MAHS

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

[REDACTED]  
[REDACTED]  
[REDACTED]