



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 15, 2019  
MOAHR Docket No.: 18-013445  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on May 8, 2019, from Lansing, Michigan. At Petitioner's request, the hearing was consolidated with a hearing request scheduled under MOAHR Docket Number 18-013445. Petitioner was represented by herself. The Department was represented by April Nemec.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) 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 September 25, 2018, the Department notified Petitioner that she was eligible for Medical Assistance (MA) as of May 1, 2018. Exhibit A, pp 40-42.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of ██████████, effective December 1, 2017. Exhibit A, p 59.
3. On September 25, 2018, the Department notified Petitioner that she was eligible for a \$90 monthly allotment of Food Assistance Program (FAP) benefits effective November 1, 2018. Exhibit A, pp 51-53.

4. On September 25, 2018, the Department notified Petitioner that she was eligible for a \$90 monthly allotment of Food Assistance Program (FAP) benefits effective November 1, 2018. Petitioner has a verified obligation to pay [REDACTED] on a monthly basis on a land contract and an annual property tax obligation of [REDACTED]. Exhibit B, pp 22, 36, and 37.
5. On October 3, 2018, the Department received a change report, and in that change report, Petitioner requested a hearing. Exhibit A, p 70.
6. A hearing was scheduled for November 8, 2018, but the request for a hearing was dismissed when Petitioner failed to attend the hearing. Exhibit A, pp 73-75.
7. On November 14, 2018, the Department received a change report, and in that change report, Petitioner requested a hearing. Exhibit A, pp 76-78.
8. On November 29, 2018, the Department received verification that Petitioner has an obligation to pay a [REDACTED] property tax bill for 2017. Exhibit A, p 9.
9. On December 13, 2018, the Department received a copy of a delinquent tax notice for Petitioner's residence. Exhibit A, pp 10-11.
10. On December 14, 2018, the Department received Petitioner's request for a hearing. Exhibit A, p 34.
11. On December 18, 2018, the Department notified Petitioner that she was eligible for Medical Assistance (MA) effective February 1, 2019. Exhibit A, p 90.
12. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED] effective December 1, 2018. Exhibit A, p 95.
13. Petitioner has a monthly obligation to pay on a land contract in the monthly amount of [REDACTED], and an obligation to pay property taxes in the annual amount of [REDACTED]. Exhibit A, pp 98-99.
14. On December 18, 2018, the Department notified Petitioner that she was eligible for a \$107 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2019. Exhibit A, pp 89-90.
15. A hearing was scheduled for January 24, 2019, but the request for a hearing was dismissed when Petitioner failed to attend the hearing. Exhibit A, pp 144-145.
16. On February 2, 2019, the Department received Petitioner's Renew Benefits form. Exhibit A, pp 149-150.
17. On February 5, 2019, the Department sent Petitioner a Redetermination (DHS-1010) with a March 6, 2019, due date. Exhibit A, p 151.

18. On February 6, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of the balance on a debit card by February 19, 2019, but this information was not received by the due date. Exhibit A, pp 152-154.
19. On March 4, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective April 1, 2019. Exhibit A, pp 157-160.
20. On March 5, 2019, the Department received Petitioner's Renew Benefits form for Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Exhibit A, pp 161-167.
21. On March 19, 2019, the Department received Petitioner's Assistance Application requesting Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits. Exhibit A, pp 168-174.
22. On March 26, 2019, the Department received insufficient verification of Petitioner's debt account because it did not include Petitioner's name on the verification document. Exhibit A, p 200.
23. On March 28, 2019, the Department denied Petitioner's request for State Emergency Relief (SER) assistance with property taxes. Exhibit A, pp 204-206.
24. Department records indicate that Petitioner was previously received State Emergency Relief (SER) benefits for assistance with home ownership totaling \$1,972.34. Exhibit A, p 107.
25. On April 1, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective April 1, 2019. Exhibit A, pp 221-223.
26. On April 2, 2019, the Department received Petitioner's application for Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits. Exhibit A, pp 224-230.
27. On April 2, 2019, the Department notified Petitioner that she was eligible for Medical Assistance (MA) effective April 1, 2019. Exhibit A, pp 239-242.
28. On April 9, 2019, the Department notified Petitioner that she was eligible for Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective April 1, 2019, and that she was eligible for Medical Assistance (MA) with a \$765 monthly effective May 1, 2019. Exhibit A, pp 244-248.
29. Petitioner has been eligible for Medical Assistance (MA) under the G2-S category with a monthly deductible in each month since January 1, 2018 exhibit for April of 2019, when she received benefits under the Health Michigan Plan (HMP) after her application was auto-certified. Exhibit A, pp 43 and 243.

30. Due to Department error, a medical expense was applied towards Petitioner's monthly deductible as an ongoing expense for several months. Exhibit A, p 47.
31. On April 2, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 6-7.
32. On April 9, 2019, the Department notified Petitioner that she is not eligible for State Emergency Relief (SER) assistance with her property taxes. Exhibit A, pp 252-254.

### **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).

#### **State Emergency Relief (SER)**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

State Emergency Relief (SER) helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. Home ownership services are available to assist with property taxes. The lifetime home ownership services maximum is \$2,000. Department of Health and Human Services Emergency Relief Manual (ERM) 304 (October 1, 2018), pp 1-2.

Petitioner applied for SER benefits seeking assistance with a delinquent property tax bill in the amount of [REDACTED]. The evidence supports a finding that the taxes were delinquent, but that foreclosure proceedings had not been initiated. Further, Petitioner has already received home ownership assistance totaling [REDACTED], and the amount between the amount she would be eligible for and the lifetime maximum would not resolve her housing emergency. Although the Department's notices denying SER benefits were not clearly worded, Petitioner is not eligible for SER assistance with her delinquent property taxes.

#### **Medical Assistance (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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

Petitioner has been an ongoing recipient of MA benefits and has been receiving benefits under the MA-G2S category. Since Petitioner's gross monthly income has exceeded the federal poverty level in each of those months, she is not eligible for "full Medicaid" under the AD-CARE category and is only eligible for MA benefits after incurring expenses exceeding a monthly deductible. Due to Department error, medical expenses submitted towards Petitioner's monthly deductible were treated as ongoing expenses and used to meet her monthly deductible for several months.

On April 2, 2019, the Department received Petitioner's application for MA benefits, and her ongoing medical expenses needed to be verified. Petitioner was auto certified under the Healthy Michigan Plan (HMP), which has no deductible, but since she is eligible for Medicare benefits, she is not eligible to remain in the HMP category of MA. Petitioner was returned to the MA-G2S category of MA.

Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of ██████, which was not disputed during the hearing. Petitioner's "protected income level" is ██████, and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$765 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

### **Food Assistance Program (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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A

FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8-9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

The Department received unsigned requests for hearings on October 3, 2018, and November 14, 2018. A signed hearing request was received December 14, 2018, after it had been sent directly to the Michigan Office of Administrative Hearings and Rules (MOAHR), previously known as Michigan Administrative Hearing System (MAHS). A signed hearing request is necessary for a client to be entitled to a hearing protesting anything other than FAP benefits.

Petitioner was an ongoing FAP recipient as a group of one in November of 2018. Petitioner received monthly RSDI in the gross monthly amount of [REDACTED], which was her only source of income, and the amount was not disputed during the hearing. Petitioner had previously been credited with unverified medical expenses, but did not submit any ongoing out of pocket medical expenses for November of 2019. Petitioner's adjusted gross income of [REDACTED] was determined by reducing her monthly income by the \$158 standard deduction. Petitioner's monthly shelter deduction of [REDACTED], which she is only entitled to as a disabled individual, was determined by adding her monthly [REDACTED] land contract to the [REDACTED] monthly properly taxes expenses, which was determined by dividing the annual expenses by 12 months, then subtracting 50% of her adjusted gross income. Petitioner's net income of [REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a net income of [REDACTED] is entitled to a \$90 monthly allotment of FAP benefits. See RFT 260.

Petitioner was an ongoing FAP recipient as a group of one in January of 2019. Petitioner received monthly RSDI in the gross monthly amount of [REDACTED] which was her only source of income. Petitioner had previously been credited with unverified medical expenses, but did not submit any ongoing out of pocket medical expenses for January of 2019. Petitioner's adjusted gross income of [REDACTED] was determined by reducing her monthly income by the \$158 standard deduction. Petitioner's monthly shelter deduction of [REDACTED], which she is only entitled to as a disabled individual, was determined by adding her monthly [REDACTED] land contract to the [REDACTED] monthly properly taxes expenses, which was determined by dividing the annual expenses by 12 months, then subtracting 50% of her adjusted gross income. Petitioner's net income of [REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a net income of [REDACTED] is entitled to a \$107 monthly allotment of FAP benefits. See RFT 260.

Petitioner was an ongoing FAP recipient as a group of one in April of 2019. Petitioner's fixed income of [REDACTED] remained the same. Petitioner's monthly shelter deduction increases to [REDACTED], only available to disabled FAP recipients, with the addition of a

\$157.67 expense for homeowner's insurance. Petitioner's net income of [REDACTED] was determined by reducing her adjusted gross income by the [REDACTED] shelter deduction. A group of one with a net income of [REDACTED] is entitled to a \$154 monthly allotment of FAP benefits.

Based on the evidence and testimony available during the hearing, the Department has offered substantial evidence to establish that Petitioner received credit for medical expenses exceeding \$35 and verified shelter expenses in months covered by her hearing requests. Petitioner failed to establish income or expenses that were not properly applied towards her eligibility for FAP benefits as a senior, disabled, or veteran recipient.

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 Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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**Kevin Scully**  
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 Office of Administrative Hearings and Rules (MOAHR).

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

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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**

Tamara Morris  
125 E. Union St 7th Floor  
Flint, MI 48502

Genesee County, DHHS

BSC2 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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