



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 21, 2019
MAHS Docket No.: 19-001262
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 March 14, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Brad Reno.

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 ██████████ 2018, the Department received Petitioner's application for Medical Assistance (MA), retroactive Medical Assistance (MA) through September 2, 2018, Food Assistance Program (FAP), and State Emergency Relief (SER) benefits. Exhibit A, pp 17-25.
2. Petitioner is not eligible for Medicare. Exhibit A, pp 26-27.
3. On December 7, 2018, the Department notified Petitioner that she was eligible for Medical Assistance (MA) effective December 1, 2018. Exhibit A, pp 30-32.
4. On December 7, 2018, the Department notified Petitioner that she was not eligible for State Emergency Relief (SER) benefits. Exhibit A, p 33.

5. On December 7, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of home rent, earned income, employment, and loss of employment by December 17, 2018. Exhibit A, pp 35-36.
6. Petitioner received earned income from employment in the gross monthly amount of [REDACTED] from November 24, 2018, through December 14, 2018. Exhibit A, pp 51-52.
7. On January 15, 2019, the Department notified Petitioner that she was approved for a \$15 monthly allotment of Food Assistance Program (FAP) benefits with prorated allotment during the month she applied for benefits. Exhibit A, pp 53-55.
8. Petitioner's employment ended December 4, 2018. Exhibit A, p 50.
9. Petitioner receives monthly unemployment compensation benefits in the gross weekly amount of [REDACTED], which is paid bi-weekly. Exhibit A, pp 56-58.
10. On [REDACTED] 2019, the Department received Petitioner's application for State Emergency Relief (SER) benefits. Exhibit A, pp 78-82.
11. On January 24, 2019, the Department notified Petitioner that she was not eligible for State Emergency Relief (SER) benefits. Exhibit A, p 83.
12. On January 24, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective March 1, 2019. Exhibit A, pp 85-88.
13. On February 4, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 4-5.

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).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.

- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

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.

Petitioner applied for SER benefits on December 4, 2018, and January 16, 2019. Petitioner's applications for SER benefits were denied. The Department's representative testified that the Department has changed its position on Petitioner's application for SER benefits since her request for a hearing was received and that she was approved for SER benefits. Petitioner did not dispute that she was approved for SER benefits.

Petitioner's hearing request is dismissed with respect to SER benefits only.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits

(UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Petitioner applied for FAP benefits as a group of one. Petitioner's employment ended and she was granted unemployment compensation benefits in the bi-weekly amount of [REDACTED]. Petitioner's gross monthly income of [REDACTED] was determined by multiplying her gross bi-weekly unemployment benefits by the 2.15 conversion factor as directed by BEM 505. Petitioner's adjusted gross income of [REDACTED] was determined by reducing her gross monthly income by the \$158 standard deduction.

Petitioner is entitled to a deduction for shelter expenses and the Department does not dispute that initially her shelter expenses were not properly determined. The Department corrected Petitioner's shelter expenses and redetermined her eligibility for FAP benefits. Petitioner has an obligation to pay rent in the monthly amount of [REDACTED], and she pays for utilities separately from her rent. Petitioner's excess shelter deduction of [REDACTED] was determined by adding her rent to the \$543 standard heat and utility deduction, then subtracting 50% of her adjusted gross income.

Petitioner's net income of [REDACTED] was determined by reducing her adjusted gross income by the excess shelter deduction. A group of one with a net income of [REDACTED] is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018). Further, when the incorrect rent amount was being applied towards Petitioner's eligibility for FAP benefits, she was found to be eligible for a \$15 monthly allotment of FAP benefits. Therefore, Petitioner's level of FAP benefits was determined properly even though her expenses were not properly determined.

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.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.¹

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

Petitioner applied for MA benefits as a group of one and her employment ended December 4, 2018. Respondent began receiving unemployment compensation benefits in the gross weekly amount of [REDACTED], which was not disputed by Petitioner during the hearing. The federal poverty in 2018 for a group of one was an annual amount of \$16,146.20, or \$310.50 weekly. Therefore, Petitioner's weekly unemployment compensation of [REDACTED] is more than 133% of the federal poverty level and the 5% income disregard does not make her eligible for benefits.

Before Petitioner's employment ended and she began receiving unemployment compensation benefits, Petitioner was receiving a gross monthly income of [REDACTED], which is 179% of the federal poverty level. Therefore, Petitioner was not eligible for retroactive MA benefits before December 1, 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 acted in accordance with Department policy when it determined that Petitioner is not eligible for Medical Assistance (MA) based on her income.

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED with respect to Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Petitioner's request for a hearing is dismissed with respect to State Emergency Relief (SER) benefits.

KS/dh



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 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

