



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: April 10, 2019
MAHS Docket No.: 19-002106
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 3, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Eligibility Specialist.

ISSUES

1. Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?
2. Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

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 February 21, 2019, Petitioner submitted an application for FAP benefits (Exhibit A).
2. Petitioner was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
3. Petitioner had Retirement, Survivors and Disability Insurance (RSDI) benefits in the monthly amount of \$ [REDACTED] (Exhibit B).

4. On February 22, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FAP application was denied (Exhibit D).
5. On February 22, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing effective March 1, 2019, ongoing (Exhibit E).
6. On March 4, 2019, Petitioner submitted a request for hearing (Exhibit G).

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).

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.

In this case, Petitioner submitted an application for FAP benefits on February 21, 2019. The Department sent Petitioner notice on February 22, 2019, informing her that her FAP application was denied, as she exceeded the net income limit. A categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p. 1. The Department presented a FAP budget to establish Petitioner's FAP eligibility (Exhibit C).

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. According to the budget provided, the Department determined Petitioner had \$[REDACTED] in unearned income. The Department presented Petitioner's State Online Query (SOLQ) report showing Petitioner receives a monthly RSDI benefit amount of \$[REDACTED]. Therefore, the Department properly determined Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses. Petitioner's FAP benefit group size of one justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1.

In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$800 and the telephone standard of \$31. BEM 554, pp. 14-15. The Department testified that Petitioner was not entitled to the heat/utility (h/u) standard, as Petitioner's heating and cooling expenses were included in her rent.

The h/u standard covers all heat and utility costs including cooling expenses. BEM 554, p. 15. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. FAP groups whose heat is included in the cost of their monthly rent may still be eligible for the h/u standard if: they are billed for excess heat payments from their landlord; they have received a home heating credit in an amount greater than \$20 for the applicable period; or they have received a Low Income Home Energy Assistance Payment (LIHEAP) or a LIHEAP payment was made on their behalf in an amount greater than \$20 for the applicable period. BEM 554, pp. 15-19. Additionally, FAP groups who pay cooling (including room air conditioners) are eligible for the h/u standard if they verify their responsibility to pay for non-heat electric expenses. BEM 554, p. 16. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the costs of other utility expenses are eligible for the individual utility standards. BEM 554, p. 21.

Petitioner confirmed that her heating and cooling expenses were included in her rent. Therefore, the Department acted in accordance with policy when it did not include the h/u standard. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income, which resulted in a deficit. The Department correctly determined Petitioner was not entitled to an excess shelter deduction.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. As Petitioner was not entitled to an excess shelter deduction, her

net income is also \$[REDACTED]. The net income limit for a group of one is \$1,012. RFT 250 (October 2017), p. 1. Therefore, the Department acted in accordance with policy when it denied Petitioner's application for FAP benefits for exceeding the net income limits.

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.

In this case, Petitioner was an ongoing MA recipient under the HMP program. As a result of the FAP application, the Department determined that Petitioner's income was higher than what was previously budgeted in her MA benefit case. As a result, the Department redetermined Petitioner's MA eligibility and sent her notice on February 22, 2019, informing her that her MA benefit case was closing effective March 1, 2019, ongoing.

The Department concluded that Petitioner was not eligible for HMP because her household income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household for a tax filer, who is not claimed as at tax dependent consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2.

The Department testified that Petitioner's MA eligibility under the HMP program was determined utilizing a group size of one. Petitioner testified that she files taxes and claims her adult son as a dependent. The Department testified that it was unsure if Petitioner was asked about her tax filing status or if verification was requested to establish her tax filing status. Therefore, the Department failed to establish that it properly followed policy when determining Petitioner's MA HMP group size. It follows that the Department also failed to establish it properly followed policy when determining Petitioner's MA eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when

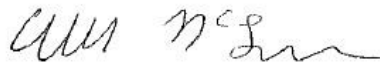
determined Petitioner's MA eligibility. The Department did act in accordance with policy when it denied Petitioner's FAP application.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's FAP benefit case and **REVERSED IN PART** with respect to Petitioner's MA benefit case.

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 MA eligibility as of March 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/jaf



Ellen McLemore
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

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

BSC4
M Holden
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