



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: April 5, 2019  
MAHS Docket No.: 19-002267  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**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 4, 2019, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented herself. Hearing Facilitator, Valarie Foley, appeared on behalf of the Department of Health and Human Services (Department).

One exhibit was admitted into evidence during the hearing. A 24-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly increase Petitioner's Child Development and Care (CDC) family contribution?

Did the Department properly terminate Petitioner's Medical Assistance (MA)?

**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 [REDACTED] [REDACTED] 2018, Petitioner obtained employment at [REDACTED]

2. [REDACTED] pays Petitioner \$ [REDACTED] per hour, and Petitioner works varying hours that average 30 to 40 per week. [REDACTED] provides health insurance to Petitioner at a biweekly premium of \$66.92, [REDACTED] provides dental insurance to Petitioner at a biweekly premium of \$18.92, and [REDACTED] provides vision insurance to Petitioner at a biweekly premium of \$2.77.
3. Petitioner reported to the Department that she obtained employment at [REDACTED]. Petitioner provided copies of her check stubs to the Department. Petitioner's check stubs showed that (a) Petitioner received biweekly gross pay of \$ [REDACTED] on January 25, 2019, and (b) Petitioner received biweekly gross pay of \$ [REDACTED] on February 8, 2019.
4. The Department redetermined Petitioner's eligibility for assistance based on her income from her new employment at Amazon.
5. The Department determined that Petitioner's FAP benefits had to be reduced. The Department reduced Petitioner's FAP benefits, but the Department did not send a notice to Petitioner.
6. The Department determined that Petitioner's CDC family contribution had to be increased from \$0 to \$45 based on her income. The Department determined that Petitioner's budgeted income was \$ [REDACTED] per month for a household size of two, including \$ [REDACTED] from employment and \$ [REDACTED] from child support. The Department issued a Notice of Case Action to Petitioner on February 20, 2019, to notify her that she was eligible for CDC with a \$45 family contribution effective December 23, 2018.
7. The Department determined that Petitioner's MA had to be terminated effective April 1, 2019, based on her income. Petitioner had been receiving MA through the Department's Healthy Michigan Plan, and the Department determined that Petitioner's income exceeded the program limit. The Department determined that Petitioner's budgeted income was \$ [REDACTED] per month for a household size of two. The Department issued a Notice to Petitioner on February 20, 2019, to notify Petitioner that she was ineligible for MA effective April 1, 2019.
8. On March 6, 2019, Petitioner filed a hearing request to dispute the Department's actions on her FAP, CDC, and MA.

### **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 Department did not act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefits because the Department did not issue a Notice of Case Action to Petitioner as required. A Notice of Case Action must specify the action being taken by the Department, the reason for the action, the basis for the action, and an explanation of a right to request a hearing. BAM 220 (April 1, 2019), p. 2-3. Here, the Department did not present any evidence to establish that it issued a Notice of Case Action as required, nor did the Department present any evidence that it was not required to issue a Notice of Case Action. Thus, I must find that the Department did not issue a Notice of Case Action as required. Therefore, the Department did not act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefits.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The Department did not act in accordance with its policies and the applicable law when it increased Petitioner's family contribution amount because the Department acted on a reported change which did not positively affect Petitioner's family contribution or authorized hours and did not result in closure. The only changes that the Department should act on with respect to CDC are those that (a) would positively affect a family's contribution or authorized hours and (b) those listed in the CDC closure reasons (including when income exceeds eligibility scale). BAM 220 (April 1, 2019), p. 1-2. Once a family has initially been found eligible for CDC, a family's income only exceeds the eligibility scale when the family's income exceeds the maximum monthly gross income eligibility limit by family size set forth in RFT 270. BEM 703 (March 1, 2019), p. 16. The maximum monthly gross income eligibility limit for a family size of two was \$3,809. RFT 270 (October 1, 2018), p. 2. Petitioner had a change in income which did not positively affect her CDC and did not require closure because it was less than the maximum monthly gross income eligibility limit. Thus, the Department should not have acted on Respondent's change with respect to her CDC. Since the Department acted on Petitioner's CDC when it should not have, the Department did not act in accordance with its policies and the applicable law when it increased her family contribution.

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 Department properly determined that Petitioner was not eligible for MA through the Healthy Michigan Plan effective April 1, 2019. Medical Assistance eligibility is determined on a monthly basis. BEM 105 (April 1, 2017), p. 2. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, her modified adjusted gross income (MAGI) must be at or below 133% of the Federal Poverty Level (FPL). BEM 137 (January 1, 2019), p. 5 and RFT 246 (April 1, 2014), p.1. For a household size of two in Michigan, the FPL is \$16,910.00 for 2019. 84 FR 1167 (February 1, 2019), p. 1167-1168. Thus, the MAGI limit for health care coverage for a household size of two is \$22,490.30 for the Healthy Michigan Plan. The Department properly determined that Petitioner's annualized MAGI was greater than \$22,490.30 based on the check stubs Petitioner provided to the Department because Petitioner provided check stubs which showed that Petitioner had an average biweekly gross pay which (when annualized) exceeded the income limit for the Healthy Michigan Plan.

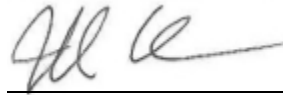
### **DECISION AND ORDER**

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 (a) the Department did not act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefits, (b) the Department did not act in accordance with its policies and the applicable law when it increased Petitioner's CDC family contribution, and (c) the Department did act in accordance with its policies and the applicable law when it terminated Petitioner's MA.

IT IS ORDERED that the Department's decision to reduce Petitioner's FAP benefits is REVERSED. The Department shall begin to implement this order within 10 days.

IT IS FURTHER ORDERED that the Department's decision to increase Petitioner's CDC family contribution is REVERSED. The Department shall begin to implement this order within 10 days.

IT IS FURTHER ORDERED that the Department's decision to terminate Petitioner's MA is AFFIRMED.



JK/nr

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Jeffrey Kemm  
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**

Susan Noel  
26355 Michigan Ave.  
Inkster, MI  
48141

Wayne 19 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

L. Brewer-Walraven- via electronic mail

**Petitioner**

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