



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: April 30, 2019
MOAHR Docket No.: 19-002976
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 April 24, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Jeffrey Robinson.

ISSUE

Did the Department of Health and Human Services (Department) determine Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) 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 ██████████ ██████████ 2019, the Department received Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On ██████████ ██████████ 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) benefits effective February 1, 2019. Exhibit A, pp 4-7.
3. On March 19, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) as a group of three effective March 1, 2019, and eligible for Food Assistance Program (FAP) benefits as a group one effective February 19, 2019, with a \$0 allotment for February of 2019. Exhibit A, pp 8-15.
4. On March 19, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 1-3.

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 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 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (April 1, 2019), p 1.

On [REDACTED] 2019, the Department received Petitioner's application for MA and FAP benefits. The Department approved Petitioner for MA and FAP as of February 1, 2019. Petitioner's children were approved for MA benefits effective March 1, 2019, and Petitioner was approved for FAP as a group of three effective March 1, 2019.

FAP benefits are prorated based on the eligibility date, which is the application date in this case. If the prorated benefit is less than \$10, the FAP group will not receive an initial benefit in the prorated month. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (April 1, 2019), p 1.

Eligibility for MA benefits is determined on a calendar month basis. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

As a group of one, Petitioner would not be eligible for an initial allotment of FAP benefits for February of 2019. As a group of three, Petitioner would be eligible for a prorated allotment in February of 2019. Petitioner was approved for FAP as a group of three effective March 1, 2019.

The hearing record does not establish how the Department determined Petitioner's group size for FAP benefits in February of 2019, or whether the Department properly determined the eligibility for MA benefits for Petitioner's children in February of 2019.

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 Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits in February of 2019.

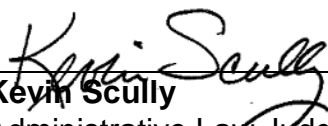
DECISION AND ORDER

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:

Re-register Petitioner's February 19, 2019, application for assistance and initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits in accordance with policy.

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 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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 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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