



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 26, 2019
MOAHR Docket No.: 19-003054
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was held on April 24, 2019, from Lansing, Michigan. Petitioner appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Tajuana Benjamin, ES Worker.

ISSUE

Did the Department properly recalculated Petitioner's FAP and MA 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. Petitioner resides in ██████████ Michigan.
2. At all relevant times to the issue(s) herein, Petitioner has been a beneficiary of the welfare FAP and MA programs. Prior to the actions disputed here, Petitioner was receiving the maximum FAP allotment, and full MA.
3. In January of 2019, Petitioner's income increased to ██████████.
4. In March of 2019, the Respondent reviewed Petitioner's cases budgeting Petitioner's increased income. The Department determined that the Respondent had incorrectly allowed a medical deduction for 11 months during which Petitioner

no longer could claim the medical expense, as it had expired. The Respondent recalculated Petitioner's FAP budget, showing Petitioner's eligibility for \$15 per month in FAP benefits. The Department recalculated Petitioner's MA budget, showing Petitioner eligible for a \$698 deductible.

5. On March 12, 2019, the Department issued a Notice of Case Action informing Petitioner that her FAP benefits would be \$15 per month effective April 1, 2019. Exhibit A.12. The Department had previously informed Petitioner in January, 2019 of her MA deductible.
6. Petitioner's expenses exceed her income.
7. On March 21, 2019, Petitioner filed a hearing request disputing the FAP 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 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 all eligibility cases, the welfare recipient has the burden of proof by a preponderance of evidence.

In this case, the Department submitted budgets showing Petitioner's eligibility for MA and FAP based on applicable federal and state laws and policy regarding budgeting expenses, income, and calculating eligibility. BEM 166, 211, 212, 503, 530, 546, 550, 554,100, 556; 7 CFR 271.273, 273.2; 273.9273.10(c). As noted in the Findings of Facts, the FAP budget shows Petitioner's eligibility to be 15 per month; MA spend down to be 698 per month. The changes were a result of Petitioner's income increasing to [REDACTED], and, the removal of an inappropriate medical expense deduction which had expired.

Petitioner did not dispute any of the income, expenses or deductions used in the updated MA and FAP budgets.


Here, there was no credible or substantial evidence to indicate that budgets used to calculate Petitioner's eligibility contained inaccurate information. Petitioner has not met her burden of proof. The fact that Petitioner's expenses exceed her income is not disputed. However, there is no eligibility where an individual is not otherwise eligible under federal and state law and policy and thus, the Department's actions must be upheld.

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 calculated Petitioner's MA and FAP budgets.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/dh



Janice Spodarek
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 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

LaClair Winbush
17455 Grand River
Detroit, MI 48227

Wayne County (District 31), 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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