



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: May 13, 2019  
MOAHR Docket No.: 19-003701  
Agency No.: ██████████  
Petitioner: ██████ ██████

**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, 7 CFR 273.15, 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 8, 2019, from Lansing, Michigan. ██████  
██████ Petitioner's Authorized Representative, appeared on Petitioner's behalf. Haysem Hosny, Hearing Coordinator, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 13-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

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

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. Petitioner lives alone. Petitioner receives \$██████████ per month from Social Security. Petitioner pays housing expenses of \$294.00 per month, and Petitioner is responsible for her heat in addition to her housing expenses.

2. Petitioner experienced temporary interruptions in her income from November 2018 through January 2019 because Social Security withheld her payments due to fraud concerns.
3. The Department reviewed Petitioner's FAP benefit eligibility and discovered that it had erroneously omitted Petitioner's income when it had determined her FAP benefit amount. The Department completed a new budget which included Petitioner's income to determine Petitioner's FAP benefit amount.
4. On January 25, 2019, the Department issued a notice of case action to Petitioner to notify her that effective March 1, 2019, her FAP benefit was going to be reduced to \$46.00 per month.
5. The Department reviewed Petitioner's MA eligibility. The Department determined that Petitioner's income exceeded the Department's eligibility criteria for full-coverage MA.
6. On February 6, 2019, the Department issued a health care coverage determination notice which notified Petitioner that effective March 1, 2019, she was ineligible for full-coverage MA. The Department further notified Petitioner that effective March 1, 2019, she was eligible for MA with a monthly deductible of \$612.00.
7. On April 1, 2019, the Department's eligibility criteria for full-coverage MA changed. The income limit increased. The Department reviewed Petitioner's MA eligibility and determined that Petitioner was eligible for full-coverage MA.
8. On April 15, 2019, the Department issued a new health care coverage determination notice which notified Petitioner that effective April 1, 2019, she was eligible for full-coverage MA.
9. On April 2, 2019, Petitioner filed a hearing request to dispute the Department's FAP and MA decisions.

### **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).

### **FOOD ASSISTANCE**

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 determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (April 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2018). To determine a client's countable income, the Department considers the expenses and deductions that a client is entitled to such as the standard deduction and the excess shelter expense. Here, Petitioner was entitled to a standard deduction of \$158.00 for a household size of one, and Petitioner was entitled to an excess shelter expense of \$397.00 (taking into account Petitioner's housing expenses and the heat utility standard). Petitioner's income from social security of \$[REDACTED] less the expenses and deductions that she was entitled to results in a countable income of \$484.00.

Once the Department determines a client's countable income, the Department looks it up in its Food Issuance Table to determine the maximum FAP benefit the client is entitled to receive. A client with a household size of one and a countable income of \$484.00 in March 2019 was entitled to a maximum FAP benefit of \$46.00 per month. The Department properly determined Petitioner's FAP benefit amount when the Department determined that Petitioner was eligible for a FAP benefit of \$46.00 per month effective March 1, 2019.

### **MEDICAL ASSISTANCE**

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 determines eligibility for full-coverage MA through Aged or Disabled program (AD care) based in part on income. An individual must have an income at or below 100% of the Federal Poverty Level (FPL). BEM 163 (July 1, 2017), p. 1. In 2019, the FPL for a household size of one was \$12,490.00 per year. 84 FR 1167 (February 1, 2019), p. 1167-1168. Thus, the monthly income limit for March 2019 was \$1,040.83. Petitioner's income was \$[REDACTED] per month, and she was entitled to a disregard of \$20 of her income pursuant to policy. BEM 541 (January 1, 2019), p. 3. Thus, Petitioner's income after the \$20 disregard was \$[REDACTED]. Petitioner's income in March 2019 was less than the monthly income limit for full-coverage MA through AD care. Therefore, the Department did not act in accordance with its policies when it determined she was not eligible for full-coverage MA through AD care for March 2019.

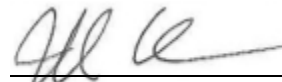
**DECISION AND ORDER**

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 act in accordance with its policies and the applicable law when it issued its January 25, 2019, notice of case action which reduced Petitioner's FAP benefit to \$46.00 per month effective March 1, 2019; and (b) the Department did not act in accordance with its policies when it issued its February 6, 2019, health care coverage determination notice which found Petitioner ineligible for full-coverage MA effective March 1, 2019.

IT IS ORDERED that the Department's January 25, 2019, FAP decision is AFFIRMED.

IT IS FURTHER ORDERED that the Department's February 6, 2019, MA decision is REVERSED. The Department shall begin to implement this decision within 10 days.

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 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**

Dawn Tromontine  
41227 Mound Rd.  
Sterling Heights, MI  
48314

Macomb 36 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

**Authorized Hearing Rep.**

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

**Petitioner**

[REDACTED]  
[REDACTED]  
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[REDACTED]