



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: May 22, 2019  
MOAHR Docket No.: 19-004168  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 3-way telephone conference hearing was held on May 21, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Andrea Jones, Hearing Facilitator.

### **ISSUE**

Did the Department properly close Petitioner's FAP and MA due to excess income?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times prior to the actions herein, Petitioner was a beneficiary of FAP and MA welfare benefits.
2. On February 4, 2019 Petitioner submitted a change report indicating Petitioner began full time employment effective January 4, 2019.
3. The Department recalculated eligibility finding Petitioner was excess income for MA and FAP.
4. On February 27, 2019 the Department issued a Health Care Coverage Determination Notice closing Petitioner's MA due to excess income effective April 1, 2019.

5. On February 27, 2019 the Department issued a Notice of Case Action closing Petitioner's FAP effective April 1, 2019 and ongoing due to excess income.
6. On April 19, 2019 Petitioner filed a hearing request.

### **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.

Here, applicable policy is found at BEM 550, 556 and corresponding federal regulations are found at 7 CFR 273.9; 271.10, and 273.11.

At the administrative hearing in this case, the Department explain that based on the information at the time of Petitioner's job start, the case benefit calculations were correct. However, subsequent to that time, Petitioner did not actually work full time, as she had expected.

The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record. The ALJ at an administrative hearing must base a decision upon the evidence of record focusing at the time of the assessment. The Department cannot be held accountable for evidence it was unaware of at the time of its determination.

After a careful review of the credible and substantial evidence on the whole records, this ALJ finds that the Department's actions were in compliance with its policy and supported by the documentary and testimonial evidence taken as a whole.

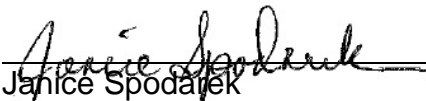
It is noted that at the administrative hearing, Petitioner indicated that she understood that the Department's actions were correct but did not want to withdraw her hearing request.

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 closed Petitioner's MA and FAP cases. Petitioner understands that she may reapply, and in fact, already reapply about 2 weeks prior to the hearing.

**DECISION AND ORDER**

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

JS/nr

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

**DHHS**

Jeanenne Broadnax  
25637 Ecorse Rd.  
Taylor, MI  
48180

Wayne 18 County DHHS- via electronic  
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

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**Petitioner**

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