



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: June 4, 2019  
MOAHR Docket No.: 19-004628  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

### **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 May 29, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Amanda Mullen, Hearing Facilitator and Alica Grimwood, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP) and 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. Petitioner was a recipient of FAP and MA.
2. On March 19, 2019, Petitioner submitted a Change Report of a decrease of her employment hours. Department Exhibit 1, pgs. 1-2.
3. On March 19, 2019, the Department Caseworker sent Petitioner a Verification Checklist, DHS-3503, that was due on March 29, 2019, to provide the required verifications to determine continued eligibility. Department Exhibit 1, pgs. 3-4.

4. On March 21, 2019, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that Petitioner's FAP benefits were increased to \$60 for a household group size of 1 effective April 1, 2019. Department Exhibit 1, pgs. 5-8.
5. On March 21, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that Petitioner was eligible for the MA Savings Program effective February 1, 2019, and ongoing, but effective May 1, 2019, Petitioner had to pay a premium of \$40.10 for the Freedom to Work (FTW) program. Department Exhibit 1, pgs. 9-11.
6. On April 10, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that Petitioner was not eligible for MA effective May 1, 2019, due excess income. Department Exhibit 1, pgs. 12-15.
7. On April 19, 2019, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that Petitioner's FAP benefits were increased to \$126 for a household group size of 1 effective May 1, 2019. Department Exhibit 1, pgs. 16-19.
8. On April 23, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative actions.

### **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 this case, Petitioner was a recipient of FAP and MA. Her MA case was closed on April 30, 2019, because she did not pay her premiums for MA FTW program. She is eligible to reapply. Petitioner that she understood the Department's action in the MA

matter. However, the Department did not meet their burden for the FAP case because they could not determine that they had properly followed policy in determining her FAP eligibility. BAM 130, 220, 600. BEM 174,501, 503, 554.

### **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 the Department acted in accordance with Department policy when it determined that Petitioner was not eligible for FTW MA because she did not pay her premiums. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was receiving the correct amount of FAP benefits based on her earned and unearned income.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA and **REVERSED IN PART** with respect to FAP.

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:

1. Initiate a redetermination of the Petitioner's eligibility for the Food Assistance Program (FAP) retroactive to April 1, 2019.
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



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**Carmen G. Fahie**  
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**

Carisa Drake  
190 East Michigan  
Battle Creek, MI 49016

Calhoun County (District 21), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

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