



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 3, 2019
MOAHR Docket No.: 19-005454
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 June 26, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Mark Logan Supervisor. [REDACTED] [REDACTED] appeared and testified for the Petitioner. Department Exhibit 1, pp. 1-59 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) and Medical Assistance (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 was a recipient of FAP and MA-Adcare.
2. On March 1, 2019, semi-annual redetermination paperwork was sent to Petitioner.
3. On March 14, 2019, Petitioner sent in the redetermination paperwork with verifications.
4. On April 3, 2019, Petitioner submitted additional verifications.
5. On April 29, 2019, Notice of Case Action was sent to Petitioner informing her that FAP benefits would close due to excess income.

6. On April 29, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was eligible for MA with a \$1,456 deductible and the Medicare Savings Program.
7. On May 21, 2019, Petitioner requested hearing disputing the closure of FAP and change in MA program.
8. The Department agreed to reprocess eligibility for FAP and consider medical expense receipts provided by Petitioner.
9. [REDACTED] [REDACTED] employment with Concentrix is not self-employment.

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.

Verify allowable medical expenses including the **amount of reimbursement**, at initial application and redetermination. Verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits.

Do not verify other factors, unless questionable. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. BEM 554

EMPLOYMENT OR SELF-EMPLOYMENT INCOME?

It is sometimes difficult to determine if an individual's income should be entered in the earned income or self-employment LUW. Make a determination based on available information and document your rationale. Use the following guidelines to help make that determination; consider the following to be indicators of self-employment:

- The individual sets own work hours.
- The individual provides own tools used on the job.
- The individual is responsible for the service being provided and for the methods used to provide the service.
- The individual collects payment for the services provided from the individual paying for them.

A client need not meet all of the above to be considered self-employed. BEM 502

FAMILY SIZE

The size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household.
BEM 211

In this case, the Department acknowledged that ongoing medical expense information provided by Petitioner in March 2019 was not processed. It was also unclear whether Petitioner's past medical bills were properly processed. BEM 554

Petitioner raised issues with regard to employment expenses related to her husband's employment with Concentrix. Petitioner is paid hourly directly from his employer. Petitioner's husband works from home but is not an independent contractor. Petitioner's husband does not receive payment directly from the businesses or individuals he is providing services to. Petitioner's husband's employment is not self-employment. BEM 502, 7CFR 273.9(d)(3)

With regard to MA, Petitioner previously received MA-Adcare because her husband's income was not included in determining her eligibility. BEM 211 With Petitioner's husband's income being budgeted the Department correctly determined that Petitioner was eligible for MA with a deductible amount of \$1,456 per month.

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 FAP eligibility because it failed to consider medical expenses.

The Department correctly determined Petitioner's MA eligibility and deductible amount.

DECISION AND ORDER

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. Reinstate FAP going back to the date of closure and consider medical expenses.
2. Award FAP benefits and issue a supplement if Petitioner is found eligible.

AM/nr



Aaron McClintic
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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
MI