



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: July 2, 2019
MOAHR Docket No.: 19-005696
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 July 1, 2019, from [REDACTED] Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Morgan Hafler, Hearings Facilitator, and Iesha Porter, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program Healthy Michigan Plan (HMP) case due to excess income?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefit rate?

FINDINGS OF FACT

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

1. On April 4, 2019, the Department received a completed Verification of Employment for Petitioner at [REDACTED] (Employer 1) indicating she received \$[REDACTED] per hour and was paid bi-weekly in addition to a copy of her payroll history.
2. On April 17, 2019, the Department received earnings statements for Petitioner from [REDACTED] (Employer 2) for pay dates March 8, 2019 and March 22, 2019.

3. On April 25, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate would decrease to \$15.00 per month effective June 1, 2019 because her net earned income amount has changed.
4. On the same day, the Department issued a Notice of Case Action to Petitioner informing Petitioner that she was not eligible for MA benefits effective June 1, 2019 because she was not under age 21, pregnant, a caretaker of a minor child in her home, a former foster child, aged, blind, nor disabled, and did not have income below the HMP income limit.
5. On May 24, 2019, the Department received Petitioner's request for hearing disputing the closure of her MA benefits and reduction in her FAP benefit rate.

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).

In this case, Petitioner disputes the reduction in her FAP benefit rate and the closure of her MA benefits case.

Food Assistance Program (FAP)

The 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.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received on a weekly basis is averaged and multiplied by 4.2. *Id.* Income received on a bi-weekly basis is averaged and multiplied by 2.15. *Id.* Income received twice per month is added together. *Id.*

Petitioner has two employers. Employer 1 pays Petitioner on a bi-weekly basis. Her wages were \$[REDACTED] for pay date March 8, 2019 and \$[REDACTED] for pay date March 22, 2019. Therefore, Petitioner's standardized income is \$[REDACTED] for Employer 1. Employer 2 also pays Petitioner on a bi-weekly basis, and she had wages in the amount of \$[REDACTED] on March 8, 2019, and \$[REDACTED] on March 22, 2019. No evidence was presented regarding the reason for the drastic difference in income. Therefore, Petitioner's standardized monthly wage from Employer 2 is \$[REDACTED]. Petitioner's combined standardized monthly income is \$[REDACTED] (dropping the cents). The Department calculated Petitioner's income to be \$[REDACTED].

FAP clients who do not have a Senior, Disabled, or Disabled Veteran (SDV) group member must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. No evidence was presented that Petitioner was an SDV group member. The Gross Income Limit for a group size of one is \$2,024.00. RFT 250 (October 2018), p. 1. The Net Income Limit is \$1,012.00. *Id.* Since Petitioner's income is below the Gross Income Limit, an evaluation of her Net Income follows.

After consideration of income, the Department considers all appropriate deductions and expenses. Since Petitioner is not an SDV group member, she is eligible for the following deductions to income:

- 20% Earned Income Deduction
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 550 (January 2017), pp. 1-1; BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

Since Petitioner has earned income, the total earned income is reduced by 20% for a total income of \$[REDACTED] (dropping the cents). No evidence was presented that Petitioner had a dependent care or child support expense; therefore, the Department properly budgeted Petitioner's expense as \$0.00. The Department also properly afforded Petitioner with the \$158.00 standard deduction for a group size of one. RFT 255 (October 2018), p. 1. After these deductions are considered, Petitioner's Adjusted Gross Income (AGI) is calculated to be \$[REDACTED].

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. Petitioner has a housing cost of \$450.00 per month. She is not responsible for her heat, utilities, water, sewer, or trash expenses. However, she is responsible for her telephone services. Therefore, the Department properly budgeted \$0.00 for each deduction except the telephone standard where she was appropriately provided the \$31.00 standard deduction. BEM 554, pp. 14-15; RFT 255, p. 1. Next, Petitioner's housing expense and any utilities are added together and then reduced by

half of Petitioner's AGI. If the result is a negative number, Petitioner is not eligible for the Excess Shelter Deduction. Half of Petitioner's AGI is \$[REDACTED] and when subtracted from her total housing cost of \$481.00, it results in a negative number. BEM 556 (April 2018), p. 5. Petitioner is not eligible for the Excess Shelter Deduction. Therefore, her AGI equals her Net Income of \$[REDACTED] per month. As discussed above, Petitioner is subject to the Net Income Limit of \$1,012.00 per month and would be ineligible for benefits yet the Department afforded Petitioner a FAP benefit rate of \$15.00. The Department's error results in a benefit to Petitioner and will not be corrected here.

Medical Assistance (MA) Program

The 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.

Petitioner disputes the closure of her MA HMP benefits. MA is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1; MPM, Healthy Michigan Plan, § 1.1.

The Department denied Petitioner's MA application because he had excess income for HMP purposes. No evidence was presented that Petitioner was disabled, had dependents, or was over the age of 65. Therefore, Petitioner does not qualify for any other programs except possibly the HMP.

To determine eligibility for HMP, a determination of group size using the MAGI methodology, consideration of the client's tax status and dependents, is required. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (January 2016), pp. 1-2. No evidence was presented that Petitioner was married. Therefore, Petitioner's MA group size is one. 133% of the FPL for a group size of one is \$16,611.70 as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$16,611.70 annually for a group size of one or \$1,384.30 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. <http://www.mdch.state.mi.us/dch-medicaid/manuals/MichiganStatePlan/MichiganStatePlan.pdf>. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. *Id.* Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. *Id.* In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. Effective October 1, 2018, all RSDI income is countable for tax-filers and adults not claimed as dependents. BEM 503 (October 2018), p. 30.

For March 2018, Petitioner had earnings from Employer 1 in the amount of \$[REDACTED] and \$[REDACTED]. She also had earnings from Employer 2 in the amount of \$[REDACTED] and \$[REDACTED]. Therefore, Petitioner's monthly income from March 2018 was \$[REDACTED]. Her income is above the HMP income limit.

An exception exists to the income limit rule if an individual's group income is within 5% of the FPL for the applicable group size, a disregard is applied in order to make the person eligible for MA. MREM, § 7.2. After consideration of the 5% disregard, the income limit is \$17,236.20 or \$1,436.35 per month. Petitioner's income is still greater than the income limit even after the 5% disregard. Therefore, she is still not eligible for HMP.

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 Petitioner's FAP eligibility and closed her MA case due to excess income for HMP.

DECISION AND ORDER

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

AMTM/jaf



Amanda M. T. Marler
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

Keisha Koger-Roper
MDHHS-Wayne-55-Hearings

Petitioner

[REDACTED]
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BSC4
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