



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: July 9, 2019
MOAHR Docket No.: 19-005995
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on July 3, 2019, from Lansing, Michigan. Petitioner was represented by herself and her daughter [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Andrea Edwards.

ISSUE

Did the Department of Health and Human Services (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 an ongoing Food Assistance Program (FAP) recipient as a group of one receiving a \$192 monthly allotment as of December 1, 2018. Exhibit A, pp 7-10.
2. On May 7, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of housing expenses by May 17, 2019. Exhibit A, pp 11-12.
3. The Department received a copy of a lease agreement showing that Petitioner is responsible for a base rent of \$280 per month, and an LTO Fee of \$126.79 per

month, and that Petitioner has agreed to pay \$410 per month toward the home. Exhibit A, pp 13-16.

4. The Department received a copy of a check showing that Petitioner pays \$410 per month for housing. Exhibit A, p 17.
5. On April 29, 2019, the Department received Petitioner's Renew Benefits form. Exhibit A, pp 4-6.
6. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 29-31.
7. On May 15, 2019, the Department notified Petitioner that she is eligible for a \$69 monthly allotment of Food Assistance Program (FAP) benefits as of June 1, 2019. Exhibit A, pp 18-21.
8. On May 15, 2019, the Department notified Petitioner that she is eligible for ongoing Medical Assistance (MA) benefits with a \$636 monthly deductible, and that she is eligible for full Medicare Savings Program (MSP) benefits. Exhibit A, pp 22-28.
9. On May 28, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, p 3.

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 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 Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage

begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

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.

Petitioner was an ongoing MA and FAP recipient as a group of one when the Department initiated a determination of her eligibility for ongoing benefits. As part of that determination, Petitioner provided the Department with a copy of her lease showing that she is responsible for a base rent of \$280 per month and an LTO Fee of \$126.79 per month, but that she has agreed to pay \$410 per month. Petitioner provided a copy of a check showing that she does pay \$410 per month. Petitioner received monthly RSDI payments in the gross monthly amount of \$[REDACTED] which includes a cost of living increase for 2019.

The Department considers the full RSDI payment from the Social Security Administration except that the cost of living allowance is excluded for the first three months of the year. Previously, the Department used another formula for determining countable RSDI in some cases, but current policy requires the entire gross benefit to be considered. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (April 1, 2019), p 29.

Petitioner's gross monthly income exceeds the federal poverty level and therefore she is not eligible for MA benefits without a monthly deductible. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner. Petitioner's "protected income level" is \$408, and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. The Department's determination that Petitioner has a \$636 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

Petitioner receives a gross monthly income of \$[REDACTED] and this amount is fully countable towards her FAP benefits as a group of one. Petitioner's adjusted gross income of \$906 was determined by reducing her income by the \$158 standard deduction.

Petitioner is entitled to a \$496 shelter deduction, which was determined by reducing the total of her \$406.79 monthly housing expenses and the \$543 standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's monthly net income of \$[REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a monthly net income of \$[REDACTED] is entitled to a \$69 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 6.

The evidence supports a finding that Petitioner has agreed to pay \$410 to her landlord on a monthly basis. The verification documents submitted by Petitioner do not indicate what the \$3.21 difference between her base rent and LTO Fee is for. Some payments made to a landlord are not countable towards eligibility for the housing deduction, such as carports, pets, and other expenses. This monthly payment could potentially be countable if further verification is provided but the documentation presented during the hearing does not verify the nature of his expense.

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 eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of June 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Holly DeGroat
515 South Sandusky
Sandusky, MI 48471

Sanilac County, DHHS

BSC2 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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