



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 15, 2019  
MOAHR Docket No.: 19-006010  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 42 CFR 431.200 to 431.250, 42 CFR 438.400 to 438.424, and Mich Admin Code R 792.11002. After due notice, a telephone hearing was held on July 10, 2019, from Lansing, Michigan. [REDACTED] Petitioner, appeared and represented himself. Valarie Foley, Hearing Facilitator, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 34-page packet of documents provided by the Department was admitted as the Department's Exhibit A. A 33-page packet of documents provided by Petitioner was admitted as Petitioner's Exhibit 1.

### **ISSUE**

Did the Department properly terminate Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly terminate Petitioner's 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 has a household size of one. Petitioner is disabled. Petitioner has monthly income of \$ [REDACTED] from social security. Petitioner pays \$240.00 per month for housing, and Petitioner is responsible for paying for electric utilities in addition to his housing.

2. On May 7, 2019, the Department mailed a verification checklist to Petitioner to obtain information to review his eligibility for assistance. The Department instructed Petitioner to provide requested documents by May 17, 2019.
3. Petitioner did not provide the requested documents to the Department by May 17, 2019, as instructed because he was recovering from a procedure at the time.
4. On May 30, 2019, the Department mailed a notice of case action to Petitioner to notify him that his FAP benefits were going to be closed effective June 1, 2019, because he did not provide requested verifications. The Department also mailed a health care coverage determination notice to Petitioner to notify him that he was not eligible for MA effective July 1, 2019, because he did not meet the Department's requirements.
5. On June 4, 2019, Petitioner provided the Department with the requested documents.
6. On June 6, 2019, Petitioner filed a hearing request to dispute the Department's decisions.
7. On June 7, 2019, the Department mailed a notice of case action which notified Petitioner that he was eligible for a FAP benefit of \$13.00 for June 4, 2019, through June 30, 2019, and \$15.00 per month thereafter. The Department also mailed a health care coverage determination notice to Petitioner to notify him that he was eligible for full-coverage MA through the Medicare Savings Program (MSP) effective July 1, 2019, and that he was eligible for MA with a deductible of \$903.00 per month effective July 1, 2019.
8. On July 1, 2019, Petitioner began receiving health care coverage through Medicare.
9. Petitioner still disputes the Department's decisions.

### **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).

## FOOD ASSISTANCE

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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Verifications are usually required at application and redeterminations. BAM 130 (April 1, 2017), p. 1. The Department must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 3. The Department must allow the client 10 calendar days to provide the verification that is requested. *Id.* at 7. The Department must send a negative case action notice when the client refuses to provide the requested verification, or the client fails to make a reasonable effort to provide it before the due date lapses. *Id.* at 7.

In this case, the Department requested verifications on May 7, 2019, with a due date of May 17, 2019. The Department told Petitioner what verification was required, how to obtain it, and the due date. Petitioner did not provide the requested verifications by the due date, so the Department mailed a negative action notice to terminate his FAP benefits. Petitioner did not present any evidence to establish either that he provided the requested verifications by the due date or that he made a reasonable effort to provide the requested information before the due date lapsed. Therefore, I must find that the Department acted in accordance with its policies when it terminated his FAP benefits.

Petitioner subsequently provided the requested verifications after the due date, and the Department determined that Petitioner was eligible for a FAP benefit of \$15.00 per month. Petitioner now disputes his monthly FAP benefit amount.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (April 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (April 1, 2018), RFT 260 (October 1, 2018), and RFT 255 (October 1, 2018).

In this case, there is no evidence that the Department did not properly determine Petitioner's FAP benefit. Petitioner did not present any evidence to establish that his household income or allowable expenses were different than those used by the Department, and Petitioner did not present any evidence to establish that his group size was greater than that used by the Department. Based on a review of the budget used by the Department and the applicable Food Issuance Table, the Department used the correct standard deductions and correctly determined Petitioner's FAP benefit amount based on his countable household income and group size. Therefore, I must find that the Department acted in accordance with its policies when it determined that the maximum FAP benefit Petitioner was eligible for was \$15.00 per month.

## MEDICAL ASSISTANCE

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner was receiving full-coverage MA through the Department's Healthy Michigan Plan prior to the date the Department found him ineligible, July 1, 2019. Petitioner filed his hearing request because he still wants full-coverage MA from the Department.

Full-coverage MA through the Healthy Michigan Plan is only available to those individuals who do not qualify for and are not enrolled in Medicare. BEM 137 (January 1, 2019), p. 1. Since Petitioner obtained Medicare coverage effective July 1, 2019, Petitioner was no longer eligible for full-coverage MA through the Healthy Michigan Plan. Thus, the Department acted in accordance with its policies when it found Petitioner ineligible for MA through the Healthy Michigan Plan.

Full-coverage MA is available to disabled adults through another program. The income limit for disabled adults to receive full-coverage MA is 100% of the Federal Poverty Limit (FPL). BEM 163 (July 1, 2017), p. 1. In 2019, the FPL is \$12,490.00 per year for a household size of one. 84 FR 1168 (February 1, 2019), p. 1167-1168. Thus, the monthly income limit for 2019 was \$1,040.83. Petitioner's income was \$[REDACTED] per month, and he was entitled to a disregard of \$20 of his income pursuant to policy. BEM 541 (January 1, 2019), p. 3. Thus, Petitioner's income after the \$20 disregard was \$[REDACTED]. Petitioner's income exceeded the Department's limit for full-coverage MA. Thus, the Department acted in accordance with its policies when it found Petitioner ineligible for full-coverage MA for disabled adults.

Since Petitioner was not eligible for full-coverage MA through the Department, the best available MA through the Department was MA with a monthly deductible. The deductible amount is calculated by subtracting the protected income limit from an individual's monthly income. BEM 544 (July 1, 2016), p. 1, BEM 545 (October 1, 2018), p. 10-11, and RFT 240 (December 1, 2013). Petitioner's protected income level was \$375.00 per month for a household size of one in Wayne County. RFT 240. Petitioner's monthly income was \$[REDACTED]. Petitioner's monthly income of \$[REDACTED] minus Petitioner's protected income level of \$[REDACTED] equals his monthly deductible of \$903.00. The Department acted in accordance with its policies when it found Petitioner eligible for MA with a deductible of \$903.00 per month.

**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 (a) that the Department did act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits effective June 1, 2019; (b) that the Department did act in accordance with its policies and the applicable law when it determined he was eligible for a FAP benefit of \$15.00 per month; and (c) that the Department did act in accordance with its policies and the applicable law when it determined that the best available health care coverage through the Department was MA with a deductible of \$903.00 per month.

IT IS ORDERED the Department's decisions are **AFFIRMED**.

JK/nr



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Jeffrey Kemm  
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**

Susan Noel  
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Wayne 19 County DHHS- via electronic  
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BSC4- via electronic mail

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EQAD- via electronic mail

**Petitioner**

[REDACTED]  
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