



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: August 19, 2019
MOAHR Docket No.: 19-007660
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 August 15, 2019, from Lansing, Michigan. [REDACTED] Petitioner, appeared with his spouse/representative, [REDACTED] LaShona Callen, Assistance Payments Supervisor, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 36-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

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 is a [REDACTED] year-old married individual. Petitioner has a household size of two. Petitioner's gross household income is \$[REDACTED] per month. Petitioner has a housing expense of \$1,000.00 per month, and Petitioner is responsible for his heating utilities in addition to his housing expense. Petitioner's spouse has Medicare, and she pays a premium of \$135.50 per month.

2. Petitioner requested FAP benefits from the Department, and the Department determined that the maximum FAP benefit amount Petitioner's household was eligible for was \$15.00 per month. The Department issued its last notice of case action regarding the FAP benefit amount on November 2, 2018.
3. Petitioner requested MA from the Department. The Department provided Petitioner with full-coverage MA through the Department's Healthy Michigan Plan until June 30, 2019.
4. On July 5, 2019, the Department issued a health care coverage determination notice to Petitioner which notified Petitioner that Petitioner and his spouse were eligible for MA with a monthly deductible of \$1,511.00.
5. On July 26, 2019, Petitioner filed a hearing request to dispute his FAP benefit amount and the Department's determination on his MA.

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.

A client has 90 days from the date of written notice of case action to file a hearing request to dispute it. BAM 600 (July 1, 2019), p. 6. Here, Petitioner filed a hearing request more than 90 days from the date of the Department's November 2, 2018, written notice of case action. Thus, Petitioner's hearing request was filed too late to dispute the Department's November 2, 2018, notice of case action. However, for FAP benefits, a client may file a hearing request at any time to dispute his current FAP benefit amount. BAM 600, p. 7. Therefore, Petitioner's hearing request will be considered regarding his current FAP benefit amount as of the date he filed his hearing request. Since Petitioner's FAP benefit amount as of the date he filed his hearing request was \$15.00 per month, the issue is whether the Department properly determined that Petitioner's FAP benefit amount was \$15.00 as of July 2019.

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.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (January 1, 2019), p. 1. An individual covered by Medicare is ineligible for health care coverage under the Healthy Michigan Plan. *Id.*

The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* 1-2. Here, Petitioner has a household size of two because he is married and does not have any additional dependents.

The FPL for a household size of two in 2019 is \$16,910, so the maximum household income for a household size of two is \$22,490.30 to be eligible for health care coverage under the Healthy Michigan Plan. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137, p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. MAGI include(s) the gross amount of social security benefits received by a tax filer or his spouse. BEM 503 (April 1, 2019), p. 28-

29. Here, Petitioner's household income included his monthly income from social security of \$762.00 plus Petitioner's spouse's monthly income from social security of \$1,446.50.

Petitioner's total household income was \$[REDACTED] per month or \$[REDACTED] per year. Since Petitioner's income limit for health care coverage under the Healthy Michigan Plan was only \$22,490.30, Petitioner's household income exceeded the Department's limit. Thus, the Department acted in accordance with its policies and the applicable law when it found Petitioner ineligible for full-coverage MA through the Department's Healthy Michigan Plan. The Department also acted in accordance with its policies and the applicable law when it found Petitioner's spouse ineligible for full-coverage MA through the Department's Healthy Michigan Plan because she had Medicare coverage and an individual covered by Medicare is ineligible for such coverage.

Petitioner and his spouse were not eligible for any other full-coverage MA either because they did not meet the eligibility requirements of any program that would provide such coverage. Petitioner and his spouse did not meet the requirements to receive full-coverage as aged or disabled individuals because their household income exceeded the limit. The income limit for aged or disabled individuals to receive full-coverage MA is 100% of the FPL. BEM 163 (July 1, 2017), p. 1. Petitioner and his spouse had a household income exceeding 100% of the FPL (even when deducting the Medicare premium paid by Petitioner's spouse).

Since Petitioner and his spouse were not eligible for full-coverage MA, the Department considered whether they were eligible for MA with a monthly deductible. The Department found that Petitioner and his spouse were eligible for such coverage, and the Department determined their monthly deductible amount was \$1,511.00. The deductible amount is calculated by disregarding (subtracting) \$20 from social security earnings, subtracting medical insurance premiums, and subtracting the protected income limit from an individual's monthly household income. BEM 541 (July 1, 2019), p. 3; BEM 544 (July 1, 2016), p. 1; BEM 545 (July 1, 2019), p. 10-11; and RFT 240 (December 1, 2013). Petitioner's protected income level was \$[REDACTED] per month for a household size of two in Oakland County. RFT 240. Petitioner's monthly income of \$[REDACTED] minus a \$[REDACTED] disregard for social security, minus a \$135.50 Medicare premium, and minus a protected income level of \$541.00 equals his monthly deductible of \$1,511.00. The Department acted in accordance with its policies when it found Petitioner and his spouse eligible for MA with a deductible of \$1,511.00 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 that (a) the Department did act in accordance with its policies and the applicable law when it determined Petitioner's FAP benefit amount, and (b) the Department did act in accordance with its policies and the applicable law when it determined Petitioner's MA eligibility.

IT IS ORDERED the Department's decisions are AFFIRMED.

JK/nr



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

Linda Gooden
25620 W. 8 Mile Rd
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48033

Oakland 3 County DHHS- via electronic
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D. Sweeney- via electronic mail

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Authorized Hearing Rep.

[REDACTED]
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Petitioner

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