



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: October 21, 2019  
MOAHR Docket No.: 19-010221  
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 October 16, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Mia Elvine-Fair.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

### **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 an ongoing Medical Assistance (MA) recipient, and an ongoing Food Assistance Program (FAP) recipient with a \$15 monthly allotment as of September 1, 2019.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,197 and she is eligible for Medicare benefits. Exhibit A, pp 6-8.
3. On August 27, 2019, the Department notified Petitioner that effective October 1, 2019, that she was eligible for the Medicare Savings Program (MSP) and Medical Assistance (MA) with a \$769 monthly deductible. Exhibit A, p 5.

4. On September 13, 2019, the Department received Petitioner's request for a hearing protesting the size of her monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 4.

### **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.

Petitioner receives monthly RSDI benefits in the gross monthly amount of \$1,197, which was not disputed during the hearing. The federal poverty level for 2019 is \$1,040 per month. Since Petitioner's gross monthly income exceeds the federal poverty level, she is not eligible for "full" Medicaid under the AD-CARE category. 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 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. Department's determination that the Petitioner has a \$769 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

Petitioner is an ongoing FAP recipient with a gross monthly income of \$1,197. Petitioner's adjusted gross income of \$1,039 was determined by reducing her gross monthly income by the \$158 standard deduction.

Petitioner is entitled to a \$262 monthly deduction for shelter expenses. This amount was determined by reducing the sum of her \$238 rent expenses and the \$543 standard hat and utility deduction by 50% of her adjusted gross income.

Petitioner's net income of \$777 was determined by reducing her adjusted gross income by her shelter deduction. A group of one with a net monthly income of \$777 is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 11.


The Department will verify shelter expenses at application and when a change is reported. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14. Petitioner reported and verified an increase of her monthly rent, but this increase is not effective until January 1, 2020. Therefore, Petitioner is not entitled to increased expenses for housing until she is actually obligated to pay the new 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.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**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**

Courtney Jenkins  
22 Center Street  
Ypsilanti, MI 48198

Washtenaw County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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