



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: November 20, 2019
MOAHR Docket No.: 19-011158
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 November 13, 2019, from Lansing, Michigan. The Petitioner, [REDACTED] was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by Kevin Lowe, Assistance Payments Worker.

ISSUE

Did the Department properly cancel Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

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 MA and FAP benefit recipient.
2. On June 20, 2019 Petitioner submitted a DHS 1046 Semi annual form reporting change in income.
3. On August 5, 2019 the Department sent Petitioner a Notice of Case Action that her FAP benefits would be increased to \$ [REDACTED] per month for a household of five people from September 1-December 31, 2019.
4. On October 2, 2019 the Department sent Petitioner a Notice of Case Action that her FAP benefits would be cancelled from November 1, 2019 forward because her gross income exceeded the monthly FAP limit.

5. On October 2, 2019 the Department sent Petitioner a Health Care coverage Determination Notice that her Medical Assistance case would close effective October 1, 2019 based upon excess income.
6. On [REDACTED] [REDACTED] the Petitioner filed a Request for Hearing to contest the cancellation of her MA and FAP benefits.
7. On October 10, 2019 the Department generated a FAP budget which indicates that Petitioner has eligibility for FAP in the amount of \$ [REDACTED] for the month of June 1-30, 2019.
8. On October 10, 2019 the Department generated an FAP budget that indicated that Petitioner was entitled to \$ [REDACTED] in FAP benefits from July 1-31, 2019.
9. On October 10, 2019, the Department generated an FAP budget which indicated that Petitioner had \$ [REDACTED] in monthly income and was not entitled to FAP or MA benefits from November 1, 2019 forward.

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 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.

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.

In the instant case it is unclear to this Administrative Law Judge how the Department determined that Petitioner had \$ [REDACTED] in monthly gross income for November 1, 2019 forward. This Administrative Law Judge finds that the Department has not established by the necessary competent, material and substantial evidence on the record, that it was acting in compliance with Department policy when it cancelled Petitioner's FAP and MA benefits. The Department's decision cannot be upheld under the circumstances.

DECISION AND ORDER

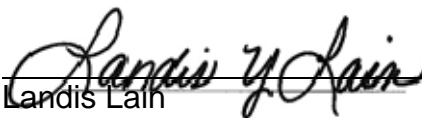
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has not established that it properly calculated Petitioner's income for purposes of Medical Assistance benefit eligibility.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN TEN DAYS OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's Medical Assistance Budget consistent with Department policy;
2. Recalculate Petitioner's income budget for purposes of FAP eligibility in accordance with Department policy;
3. Notify Petitioner of the Department's calculations and specific budget determination information for each case; and
4. If Petitioner is otherwise eligible, open an ongoing Medical Assistance case effective the November 1, 2019 forward.
5. If Petitioner is otherwise eligible, pay to Petitioner any FAP benefits to which she is entitled from November 1, 2019 forward.

LL/nr



Landis Lahn
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

LaClair Winbush
17455 Grand River
Detroit, MI
48227

Wayne 31 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

 - via first class mail
MI