



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: January 7, 2020
MOAHR Docket No.: 19-012784
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 January 2, 2020, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Brandon Edwards and Marci Thompson.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for 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 ongoing recipient of Medical Assistance (MA) and Food Assistance Program (FAP) benefits on September 3, 2019, when the Department received her completed Semi-Annual Contact Report (DHS-1046) where she reported a change of her rent and a change of her income from self-employment. Exhibit A, p 8.
2. On September 3, 2019, the Department received documents showing self-employment income and receipts of rent paid. Exhibit A, pp 9-20.
3. On September 10, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting a recent Schedule C tax form as verification of self-employment income, and verification of her current rent expense. Exhibit A, pp 23-25.

4. On October 17, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) as of November 1, 2019. Exhibit A, pp 26-27.
5. On October 17, 2019, the Department notified Petitioner that she was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 28-29.
6. On November 25, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-4.

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.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that

provides services such as adult foster care home or room and board. A person who provides childcare in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2019), p 1.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.¹

Petitioner was an ongoing recipient of MA benefits under the HMP category, a MAGI related category of Medicaid, and an ongoing recipient of FAP benefits when she reported a change to her current level of income and expenses. Eligibility for FAP benefits is determined by reducing gross self-employment income by certain expenses identified in BEM 502 of Department policy. Eligibility for MA benefits under the HMP category is determined from the modified adjusted gross income (MAGI), which is determined by IRS tax rules.

On September 3, 2019, Petitioner submitted documents showing self-employment income, self-employment expenses, and a receipt of a \$650 payment to a management company, which was presumably intended to verify her housing expense.

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

Petitioner reported gross self-employment income of \$ [REDACTED] and provided several copies of receipts showing self-employment expenses. The Department applied the flat 25% expense deduction as directed by BEM 502 when it reasonably determined that Petitioner's receipts were insufficient to accurately verify her self-employment expenses. Dividing annual gross income by 12 months and reducing by 25% leaves Petitioner with a prospective monthly income of \$1,195.

Petitioner's countable income for the purposes of determining her eligibility for FAP benefits cannot be applied towards her eligibility for benefits under HMP, which must be determined from her MAGI. The Department is required by BEM 502 to obtain verification of self-employment income from a tax return, or a Schedule C tax form, even if that Schedule C tax form has not been filed with the IRS. Department policy prohibits the Department from accepting a self-employment statement for verification for HMP eligibility. BEM 502, pp 8-9.

On September 10, 2019, the Department requested verification necessary to accurately determine Petitioner's MAGI. Petitioner had reported to the Department that her prior income tax return was not reflective of her current self-employment income.

However, no evidence was presented to establish that a Schedule C tax form showing current income and expenses was submitted to the Department in a timely manner. Therefore, the Department notified Petitioner that she was not eligible for ongoing HMP benefits for failure to provide the Department with current information necessary to accurately determine her MAGI and eligibility for MA benefits.

The Department then determined Petitioner's eligibility for ongoing FAP benefits using her monthly self-employment income of \$ [REDACTED]. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her self-employment by the 20% earned income deduction and the \$161 standard deduction.

Petitioner is entitled to a deduction from her gross income for verified shelter expenses. The Department will verify shelter expenses at application and when a change is reported. Petitioner reported a change of housing expenses on September 3, 2019. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2019), p 14. Therefore, the Department removed Petitioner's prior housing expenses from her budget leaving her with the \$518 standard heat and utility deduction as her only countable expense. The Department determined Petitioner's \$121 monthly excess shelter deduction by reducing her shelter expense by 50% of her adjusted gross income.

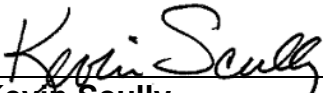
The Department determined Petitioner's net monthly income of \$ [REDACTED] by reducing her adjusted gross income by her excess shelter deduction. A household of one with a net income of \$674 is entitled to a \$16 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 10.

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 ongoing Food Assistance Program (FAP) benefits after removing the housing expenses as directed by BEM 554, and closed Petitioner's Medical Assistance (MA) benefits under the Health Michigan Program (HMP) for failure to verify her current self-employment income as required by BEM 502.

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

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]