



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: September 9, 2019
MOAHR Docket No.: 19-008508
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 September 5, 2019, from Lansing, Michigan. The Petitioner was represented by his Authorized Representative, [REDACTED] [REDACTED] Petitioner also appeared and testified. The Department of Health and Human Services (Department) was represented by Karen Smalls, AP Supervisor. Krystal Keys, APW, also testified for the Department. Department Exhibit 1, pp. 1-13 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) and 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. On [REDACTED] [REDACTED] 2019, Petitioner applied for FAP and MA benefits.
2. On July 3, 2019, Notice of Case Action was sent to Petitioner informing him that his application for FAP and MA was denied due to excess income.
3. On August 2, 2019, Petitioner requested hearing disputing the denial of FAP and MA.
4. Petitioner receives \$ [REDACTED] per month in social security income.
5. Petitioner earns \$ [REDACTED] in employment income.

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 this case, the gross income limit for FAP for a household of one is \$1,316. Petitioner's gross income is \$ [REDACTED] well over the limit. Therefore, the Department's denial of Petitioner's FAP application due to excess income was proper and correct. RFT 250, 7 CFR § 273.9

With regard to Petitioner's MA application, the Department representative at hearing could not explain why Petitioner was not considered for all MA programs including MA programs with a spend down. The Department representative agreed to reinstate Petitioner's MA application and considered his eligibility for all MA programs.

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 denied his FAP application due to excess income.

The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to consider Petitioner for all MA programs.

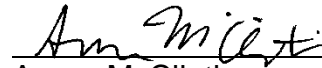
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP denial and **REVERSED IN PART** with respect to the MA denial.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate the MA application going back to the date of application.
2. Consider Petitioner for all MA programs including those with a deductible.
3. Activate MA coverage if Petitioner is found eligible.

AM/nr



Aaron McClintic
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
Southfield, MI
48033

Oakland 3 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

Authorized Hearing Rep.

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

Petitioner

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