



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: December 17, 2019  
MOAHR Docket No.: 19-012199  
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 December 11, 2019, from Lansing, Michigan. Petitioner represented himself and his daughter [REDACTED] testified on his behalf. The Department of Health and Human Services was represented by Morgan Hafler and Gail Crawford.

### **ISSUE**

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

### **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 receives monthly income in the gross monthly amount of \$834.
2. Petitioner is responsible for paying monthly rent of \$211, and he is responsible for electric service and telephone service separately from his rent.
3. On September 25, 2019, the Department notified Petitioner that he was not eligible for the Medicare Savings Program (MSP) as of September 1, 2019. Exhibit A, pp 6-9.
4. On September 25, 2019, the Department notified Petitioner that he was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 10-13.

5. On October 30, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he is receiving and the closure of his Medicare Savings Program (MSP) benefits. 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 Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated for complying with program requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (July 1, 2015), p 1.

The Department's representative testified that Petitioner's MSP benefits were closed for failure to provide the Department with information necessary to determine his eligibility to receive ongoing MSP benefits. The Department's representative testified that Petitioner reapplied for MSP benefits, but benefits for September could not be issued because that was the application month, as defined by BEM 165.

However, the Department failed to establish that reinstatement of Petitioner's MSP benefits was not required by BAM 205. Therefore, the Department failed to establish

that it properly determined Petitioner's eligibility for MSP benefits for September of 2019.

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.

Petitioner is an ongoing FAP recipient and he receives a gross monthly income of \$ [REDACTED] which was not disputed during the hearing. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his gross income by the \$161 standard deduction.

Petitioner is entitled to a \$31 excess shelter deduction. This amount was determined by adding his \$211 monthly rent to the \$126 standard electric service deduction and the \$30 standard telephone service deduction, then subtracting 50% of his adjusted gross income.

Petitioner is not entitled to the standard heat and utility deduction because he is not responsible for heating expenses separately from his rent, and has not received the home heating credit in the previous 12 months.

Petitioner's net income of \$ [REDACTED] was determined by reducing his adjusted gross income by the excess shelter deduction. A group of one with a net income of \$ [REDACTED] is entitled to a \$16 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), pp 9.

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 the Food Assistance Program (FAP), but did not act in accordance with Department policy when it determined Petitioner's eligibility for the Medicare Savings Program (MSP).

### **DECISION AND ORDER**

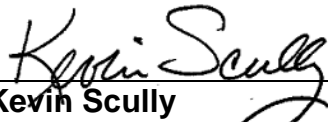
Accordingly, the Department's decision is AFFIRMED with respect to the Food Assistance Program (FAP) but REVERSED with respect to the Medicare Savings Program (MSP).

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. Initiate a determination of Petitioner's eligibility for the Medicare Savings Program as of September 1, 2019.

2. Provide Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue Petitioner any retroactive benefits he may be eligible to receive, if any.

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**

Keisha Koger-Roper  
12140 Joseph Campau  
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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