



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]

Date Mailed: March 19, 2020  
MOAHR Docket No.: 20-000767  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 March 4, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Katie Howk, Eligibility Specialist, and Amy Gearheart, Assistance Payments Supervisor. During the hearing, a 41-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-41.

**ISSUE**

Did the Department properly determine the Medicaid (MA) eligibility of Petitioner's minor child, effective [REDACTED], 2020?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective [REDACTED], 2020?

**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 resides with her partner and their minor child.
2. Petitioner's partner, [REDACTED], is employed full-time and is the sole source of income for the household.

3. On [REDACTED] 2019, Petitioner submitted to the Department a completed Redetermination form. Therein, Petitioner reported that her household consisted of herself, Mr. [REDACTED] and their minor child. Additionally, Petitioner reported that Mr. [REDACTED] worked full-time at 40 hours per week at an hourly rate of pay of \$[REDACTED]. Petitioner also reported that Mr. [REDACTED] was claiming Petitioner and their minor child as dependents for tax year 2019. Exhibit A, pp. 5-8.
4. During the first week of [REDACTED] 2019, the Department received a Verification of Employment form filled out by Mr. [REDACTED] employer, [REDACTED]. Therein, the employer included information concerning Mr. [REDACTED] previous four paychecks, which covered eight weeks. On [REDACTED] 2019, he received gross wages of \$[REDACTED] for [REDACTED] hours worked. On [REDACTED] 2019, he received gross wages of \$[REDACTED] for [REDACTED] hours worked. On [REDACTED], 2019, he received gross wages of [REDACTED] for [REDACTED] hours worked. On [REDACTED], 2019, he received gross wages of \$[REDACTED] for [REDACTED] hours worked. Exhibit A, pp. 11-14.
5. Petitioner acknowledged during the hearing that the earnings on the Verification of Employment form were accurate and typical for the time period.
6. On [REDACTED], 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective January 1, 2020, as a result of the Department's determination that Petitioner's household income exceeded the limit for program eligibility. Exhibit A, pp. 15-19.
7. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for full-coverage MA, effective [REDACTED], 2019, and that her minor child was shifting from the full-coverage U19 MA program to the MiChild program, which comes with a small deductible, effective [REDACTED], 2020. Exhibit A, pp. 36-38.
8. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's decisions to close her FAP benefits case and change her minor child's MA coverage to the MiChild program.

### **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, Petitioner objected to the Department's determination that her household was not eligible for FAP benefits, effective [REDACTED], 2020, and that her child was eligible for MA benefits subject to a deductible, effective [REDACTED] 2020. Both actions were based on the Department's determination of Petitioner's household income. The Department determined Petitioner's household income by analyzing the information contained on a Verification of Employment form showing income from [REDACTED] and [REDACTED] 2019. On [REDACTED] 2019, Mr. [REDACTED] received gross wages of [REDACTED] for [REDACTED] hours worked. On [REDACTED], 2019, he received gross wages of \$[REDACTED] for [REDACTED] hours worked. On [REDACTED] 2019, he received gross wages of [REDACTED] hours worked. On [REDACTED], 2019, he received gross wages of \$[REDACTED] hours worked. In total, Petitioner's household had earned income of [REDACTED] in [REDACTED] 2019 and [REDACTED] in [REDACTED] 2019. Petitioner confirmed during the hearing that the earnings were typical for the time and had continued at least until sometime in [REDACTED] 2020.

## FAP CLOSURE

To determine monthly earned income when an individual is paid more often than on a monthly basis, the Department is required to determine a weekly amount then multiply that amount by 4.3 to get the monthly total. BEM 505 (October 2017), p. 7. Thus, Petitioner's four weeks of earnings totaling \$2,852.73<sup>1</sup> must be divided by four to get a weekly earnings figure of \$713. Multiplying that figure by 4.3 results in a monthly income of \$3,066.

Earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (July 2019), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of \$2,453. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is \$161, resulting in an adjusted gross income of \$2,292. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

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<sup>1</sup> That number represents the sum of the two paychecks issued on [REDACTED], 2019 and [REDACTED], 2019.

However, Petitioner is eligible for the excess shelter deduction. The Department budgeted housing costs of [REDACTED]. Petitioner was also eligible for the h/u standard of \$518. Adding the expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$[REDACTED]. The excess shelter deduction is calculated by subtracting from the [REDACTED] one half of the adjusted gross income of [REDACTED] which is \$[REDACTED]. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$[REDACTED]. Petitioner's net income of [REDACTED] is calculated by subtracting the excess shelter deduction ([REDACTED] from the adjusted gross income [REDACTED]

For a group size of three, the net income limit is \$1,778. As Petitioner's household net income exceeds that amount, Petitioner's household is not eligible for FAP benefits. As the Department determined that Petitioner was ineligible due to excess net income, the Department is correct.

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 closed Petitioner's FAP benefits case, effective [REDACTED], 2020.

## **MA DETERMINATION**

The Department determined that Petitioner's household income exceeded the limit for program eligibility for Petitioner's child to be in the U19 MA category. The Department based that determination on the household size and income documentation submitted showing the household had [REDACTED] in [REDACTED] 2019 and \$[REDACTED] in [REDACTED] 2019.

For U19 eligibility, a household must be under 160% of the federal poverty limit. RFT 246 (April 2014). For MiChild, a household must be under 212% of the federal poverty limit. For a household of three, the 160% figure comes to a monthly income of \$2,844. For a household of three, the 212% figure comes to a monthly income of \$3,768.30. The figures for a household of two are even lower.

In this case, Petitioner's household income was above the 160% limit applicable at all times relevant. Thus, the Department properly determined that Petitioner's household exceeded the limit for program eligibility under the U19 program. However, the income was below the 212% limit applicable to the MiChild program. Accordingly, the Department properly determined that Petitioner's child was eligible for the MiChild MA program, effective [REDACTED] 2020.

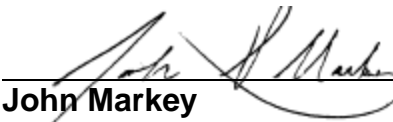
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it determined the MA benefits eligibility of Petitioner's child, effective [REDACTED], 2020.

**DECISION AND ORDER**

Accordingly, the Department's decisions are **AFFIRMED**.

JM/tm



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**John Markey**  
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**

Abigail Norton  
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**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: ME—D. Smith; EQADHShearings  
AP Specialist 3