



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: May 19, 2020
MOAHR Docket No.: 20-001359
Agency No.: ██████████
Petitioner: ██████████ ██████████

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. The hearing was adjourned on March 17, 2020. After due notice, telephone hearing was held on May 14, 2020, from Lansing, Michigan. Petitioner represented herself. No representative of the Department of Health and Human Services (Department) appeared for the hearing, the hearing proceeded with the Petitioner only.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) 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 receives a monthly "sick and accident insurance" payment in the gross monthly amount of \$██████████ Exhibit A, p 5.
2. On January 17, 2020, the Department notified Petitioner that she was eligible for Medical Assistance (MA) with a \$1,443 monthly deductible as of February 1, 2020. Exhibit A, pp 7-10.
3. On July 17, 2020, the Department notified Petitioner that she was eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits as of September 1, 2019, and a \$16 monthly allotment as of October 1, 2019. Exhibit A, pp 11-13.

4. On February 3, 2020, 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 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. Eligibility for some categories of Medical Assistance (MA) is based on Modified Adjusted Gross Income (MAGI), which is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

Petitioner is an ongoing FAP recipient as a household of two. Petitioner did not dispute that she receives a gross monthly income of \$[REDACTED] and for the purposes of determining eligibility for FAP, all this income is countable as unearned income. Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing her total monthly income by the \$161 standard deduction.

Petitioner is entitled to a \$25 deduction for shelter expenses, which was determined by reducing the sum of her monthly \$650 housing expenses and the \$518 standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net monthly income of \$[REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A household of two with a net income of \$[REDACTED] is entitled to a \$16 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 31.

On January 17, 2020, the Department notified Petitioner that she was eligible for MA benefits with a \$1,443 monthly deductible as a caretaker of children.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2020), p 2.

Petitioner testified that she is unable to work at this time, but no evidence was presented on the record that she is disabled or eligible for Medicare at this time. Petitioner did not dispute that she receives a gross monthly income of \$[REDACTED] and the Department has labeled this income as "sick and accidental insurance." Petitioner testified that this income is payable to her from a disability insurance program through her employer.

Since the Department representative was not available for testimony during the hearing, the exact nature of how the Department has determined the amount of Petitioner's income that is countable could not be determined. The most beneficial category of MA that Petitioner is potentially eligible for is the Healthy Michigan Plan (HMP). Eligibility for HMP is determined from the client's modified adjusted gross income (MAGI).

In most cases, long term disability insurance contracts are excludable from MAGI. Work related sick and injury payments are dependent on who paid the cost of the insurance plan. Disability payments that are not issued by social security, such as payments from private disability insurance policies, may not be taxable and therefore not included in MAGI. See IRS Publication 525.

In this case, the Department appears to be counting all the unearned income Petitioner receives, which made her ineligible for HMP benefits. The hearing record supports a finding that Petitioner receives gross income in the monthly amount of \$[REDACTED] because that amount has been applied towards her eligibility for FAP benefits. Whether all of this income should be included in MAGI has not been established, and therefore it has not been established that Petitioner is not eligible for HMP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the most beneficial category of Medical Assistance (MA) that Petitioner is eligible for.

The evidence presented on the record supports a finding that Petitioner's eligibility for Food Assistance Program (FAP) benefits was properly determined.

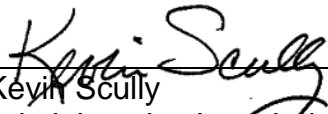
DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED with respect to the Food Assistance Program (FAP) and REVERSED with respect to Petitioner's eligibility for Medical Assistance (MA).

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 the Petitioner's eligibility for Medical Assistance (MA) as of August 1, 2019.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr



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 55 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
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██████████, MI
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