



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: June 4, 2020  
MOAHR Docket No.: 20-002830  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 3, 2020. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Brandon Bartkowiak, Assistance Payments Worker, and Theresa Ware, Family Independence Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 60-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUES**

Did the Department properly close Petitioner's Medical Assistance (MA) effective January 1, 2020, due to excessive income?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits to \$16.00 per month, effective January 1, 2020, due to increased income?

### **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 has a household size of one.
2. Petitioner does not pay rent or a mortgage, but Petitioner is responsible for paying for heating and/or cooling utilities.

3. Prior to January 1, 2020, Petitioner was receiving FAP benefits of \$80.00 per month, and Petitioner was receiving full-coverage MA.
4. On December 6, 2019, Petitioner turned in a completed redetermination packet along with paycheck stubs to renew his eligibility for assistance. Petitioner turned in the following paycheck stubs: (a) check dated October 31, 2019, in the amount of [REDACTED] for the pay period October 13 through October 26; (b) check dated November 14, 2019, in the amount of [REDACTED] for the pay period October 27 through November 9; and (c) check dated November 27, 2019, in the amount of [REDACTED] for the pay period November 10 through November 23.
5. The Department reviewed the paycheck stubs provided by Petitioner and determined that Petitioner's annual gross income was [REDACTED]. The Department updated Petitioner's case with his annual gross income as determined by the paycheck stubs.
6. On December 12, 2019, the Department mailed a notice of case action to Petitioner to notify him that his FAP benefit was going to be reduced to \$16.00 per month, effective January 1, 2020. The Department also mailed a health care coverage determination notice to Petitioner to notify him that he was no longer eligible for MA, effective January 1, 2020.
7. On [REDACTED] [REDACTED] 2020, Petitioner reapplied for MA, and the Department erroneously approved Petitioner based on his old income information.
8. On January 22, 2020, the Department discovered its error and notified Petitioner that he was approved in error.
9. On March 9, 2020, Petitioner requested a hearing to dispute his FAP and MA.

### **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).

### **MEDICAL ASSISTANCE**

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner is disputing the Department's decision to find him ineligible for MA based on his income. Petitioner had been receiving full-coverage MA through the Department.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (January 1, 2019), p. 1.

The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* at 1-2. Here, Petitioner has a household size of one because he is not married and does not claim any dependents.

The FPL for a household size of one in 2020 is \$12,760, so the maximum household income for a household size of one is \$16,970.80 to be eligible for health care coverage under the Healthy Michigan Plan. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137, p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62.

Petitioner's household income exceeded the limit of \$16,970.80 to be eligible for MA under the Healthy Michigan Plan. Based on the evidence presented, Petitioner's annual household income was \$20,088.00 (the average of his three paychecks annualized). Since Petitioner's income exceeded the limit to be eligible for MA under the Healthy Michigan Plan, the Department properly found Petitioner ineligible and closed his MA.

Although the Department has other programs which also provide MA, there was no evidence presented that Petitioner would have met the requirements of any of those programs to be eligible for MA.

## FOOD ASSISTANCE

The Food Assistance Program (FAP) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner is disputing the Department's decision to reduce his FAP benefits to \$16.00 per month, effective January 1, 2020. Petitioner had been receiving FAP benefits of \$80.00 per month prior to the reduction.

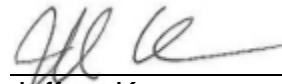
The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (October 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2019), and RFT 260 (October 1, 2019). Based on Petitioner's group size of one and Petitioner's household income of [REDACTED] per month, the maximum FAP benefit Petitioner was eligible for was \$16.00 per month. Thus, the Department properly determined Petitioner's FAP benefit amount in accordance with its policies and the applicable law.

### **DECISION AND ORDER**

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 (a) the Department did act in accordance with its policies and the applicable law when it closed Petitioner's MA effective January 1, 2020, due to excessive income, and (b) the Department did act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefits to \$16.00 per month, effective January 1, 2020, due to increased income.

IT IS ORDERED that the Department's decision is AFFIRMED.

JK/ml



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Jeffrey Kemm  
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**

Kalamazoo County DHHS – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail

[REDACTED], MI [REDACTED]