



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: September 28, 2020  
MOAHR Docket No.: 20-005089  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 23, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator.

### **ISSUE**

Did the Department properly deny Medical Assistance (MA) Program coverage to Petitioner's three grandchildren over whom she has guardianship?

Did the Department properly deny Petitioner's Application for Food Assistance Program (FAP) benefits based upon excess 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 receives Unemployment Compensation Benefit (UCB) and Pandemic Emergency Unemployment Compensation (PEUC) biweekly.
2. Petitioner receives a pension on a monthly basis.
3. Petitioner receives \$ [REDACTED] in gross Retirement Survivors Disability Insurance (RSDI) benefits monthly.

4. Petitioner receives \$ [REDACTED] in Family Independence Program (FIP) benefits monthly.
5. On July 14, 2020, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her three grandchildren were ineligible for MA benefits because they were receiving MA benefits on another case.
6. On the same day, the Department also issued a Notice of Case Action to Petitioner informing her that she was ineligible for FAP benefits due to excess income.
7. On July 27, 2020, the Department received Petitioner's request for hearing disputing the denial of MA coverage for her grandchildren and the denial of FAP benefits.

### **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).

#### **Food Assistance Program (FAP)**

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 disputes the Department's denial of her FAP Application based upon excess income. The parties do not agree on the amount of UCB/PEUC or pension income that Petitioner receives on a monthly basis. The Department did not provide any verifications of either source of income. Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (January 2020), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MAHS and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a

copy of all documents the Department intends to offer to support its action. BAM 600, p. 10. Since the Department has not provided any documentation to support its claims regarding Petitioner's income, it has not met its burden of proof to show that it acted in accordance with Department policy. It is impossible to determine whether the Department properly denied Petitioner's FAP Application based upon excess income when the amounts of income received are in dispute.

#### Medical Assistance (MA) Program

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 disputes the denial of MA benefits for her grandchildren as she had obtained guardianship of them effective June 1, 2020. The Department only provided its HCCDN as evidence for the hearing and no other evidence to support its position. If the Department was unaware of the guardianship status, Petitioner's application, the children's other MA case information, or other evidence of the children's status would have been helpful. Again, the Department did not meet its burden of proof in establishing that it properly denied MA coverage to Petitioner's grandchildren over whom she had guardianship because it did not present sufficient evidence to support its position.

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 denied Petitioner's Application for FAP benefits and MA benefits for her three grandchildren.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's Application for FAP benefits;
2. Reprocess Petitioner's Application for MA benefits for her grandchildren;

3. If otherwise eligible, issue supplements to Petitioner or on behalf of her grandchildren as applicable and as is in accordance with Department policy; and,
4. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**  
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

**Via Email:**

MDHHS-Wayne-31-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQADHearings  
BSC4  
MOAHR

**Petitioner – Via First-Class Mail:**

