



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: December 15, 2020  
MOAHR Docket No.: 20-006731  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 December 3, 2020. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Verenie Davis, Assistance Payments Supervisor, and Sherry Willman, Case Worker.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-65.

### **ISSUES**

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

Did the Department properly deny Petitioner's [REDACTED], 2020, application for Medical Assistance (MA)?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 10, 2020, the Department received a Redetermination form completed by Petitioner. In part, Petitioner reported she expected to hear about an apartment within a few weeks. (Exhibit A, pp. 32-45)

2. On September 25, 2020, the Department received a Shelter Verification showing Petitioner moved in September 1, 2020, and her rent is \$328.00 per month, which includes utilities. (Exhibit A, pp. 18-19)
3. On September 28, 2020, a Notice of Case Action was issued to Petitioner stating FAP increased to a monthly allotment of \$81.00 for October 1, 2020 through July 31, 2022. (Exhibit A, pp.21-25)
4. On [REDACTED], 2020, Petitioner applied for FAP and MA. In part, Petitioner reported that her rent was \$328.00. (Exhibit A, pp. 46-65)
5. Petitioner already had an active Medicaid case (MA-SSI). (Exhibit A, pp. 10-12 and 31)
6. On October 20, 2020, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied. (Exhibit A, pp. 27-29)
7. On October 19, 2020, Petitioner requested a hearing contesting the Department's FAP and MA determinations. (Exhibit A, pp. 4-9)

### **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).

#### **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.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits. BEM 503, September 1, 2020, pp. 29-31 and 35-36. The Department counts the gross benefit amount as unearned income. BEM 503, pp. 29 and 35. The Department also counts the corresponding monthly amount of the quarterly State SSI payments as unearned income. BEM 503, p. 36.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2020), p. 13.

The FAP Budget Summary from the September 28, 2020, Notice of Case Action was reviewed with Petitioner. There was no dispute regarding the gross amount of Petitioner's SSA issued benefits, [REDACTED], or that Petitioner receives a quarterly State SSI payment of [REDACTED]. Accordingly, the Department budgeted [REDACTED] per month of unearned income for Petitioner. The Department applied the standard deduction for the group size of one. Petitioner confirmed that her rent is \$328.00 per month, which is what was included in the FAP budget. Petitioner also confirmed that she did not have any utility expenses. (Exhibit A, p. 22; Petitioner Testimony) See also RFT 255, October 1, 2020, p. 1.

As discussed, due to COVID-19, supplemental FAP benefits are being issued for some months to households currently receiving FAP benefits to bring the case to the maximum monthly amount for the group size. A Memorandum from the Economic Stability Administration (ESA) indicates the approval was initially for two months, March 2020 and April 2020. Subsequently, approvals were made on a month by month basis and Michigan was approved to issue the additional benefits for each additional month thus far. The Memorandum is clear that this is a supplemental emergency allotment, which does not change the eligibility determination. ESA 2020-15, as updated September 8, 2020.

Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for FAP, based on the current policies and utilizing her current income and expenses.

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 FAP.

## **MA**

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, the Department explained that Petitioner's [REDACTED], 2020, application for MA was denied because Petitioner already had an active Medicaid case (MA-SSI). (Exhibit A, pp. 10-12 and 31) Therefore, on October 20, 2020, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied. (Exhibit A, pp. 27-29) The reasoning for the denial as listed on this notice did not clarify that Petitioner was denied because she already had an active MA case. However, the denial of the [REDACTED], 2020, application for MA was appropriate because Petitioner already had an active Medicaid case.

Petitioner's testimony indicated there has been a more recent determination regarding the Medicare Savings Program (MSP). However, that determination was issued in November 2020, after Petitioner's hearing request was filed on October 19, 2020. Therefore, there is no jurisdiction to review the MSP determination as a part of this hearing. If Petitioner disagrees with the MSP determination, she may wish to file a timely hearing request regarding that case action.

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 denied Petitioner's [REDACTED], 2020, application for MA.

**DECISION AND ORDER**

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

CL/ml



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Colleen Lack  
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**

Kimberly Kornoelje  
Kent County DHHS – via electronic mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

**Petitioner**

[REDACTED] – via first class mail  
[REDACTED] MI [REDACTED]