



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: January 11, 2019  
MAHS Docket No.: 18-011768  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 January 3, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Carol Moore, specialist, and Sue Fassett, supervisor.

**ISSUES**

The first issue is whether MDHHS properly denied Petitioner's request for Medical Assistance (MA).

The second issue is whether MDHHS properly denied Petitioner's request for Food Assistance Program (FAP) 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. On [REDACTED], 2018, Petitioner applied for FAP and MA benefits. Petitioner reported she was the only member of her household and between the ages of 19-64 years. Petitioner did not claim a disability or pregnancy. Petitioner also reported ongoing receipt of unemployment compensation benefits (UCB) of \$ [REDACTED] two weeks. (Exhibit A, pp. 7-13.)

2. On September 26, 2018, MDHHS mailed Petitioner an Appointment Notice (Exhibit A, p. 14) scheduling Petitioner for a FAP interview on September 28, 2018, at 9:30 a.m.
3. On September 26, 2018, Petitioner's specialist called Petitioner for her FAP interview. Petitioner did not answer, Petitioner later called her specialist and left a voicemail.
4. On September 28, 2018, MDHHS mailed Petitioner a Notice of Missed Interview (Exhibit A, p. 15).
5. On an unspecified date. MDHHS denied Petitioner's request for FAP benefits for failing to be interviewed. (Exhibit A, pp. 27-29.)
6. On October 26, 2018, MDHHS denied Petitioner's request for MA benefits. MDHHS denied Petitioner for Healthy Michigan Plan (an MA category) due to excess income. (Exhibit A, pp. 30-33.)
7. On November 2, 2018, Petitioner requested a hearing to dispute the denials of FAP and MA benefits. (Exhibit A, pp. 5-6.)

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing to dispute a denial of MA benefits. A proper evaluation requires a consideration of Medicaid categories for which Petitioner may be eligible.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged

(65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Petitioner reported to MDHHS being non-disabled, non-pregnant, not a caretaker to minor children, and between the ages of 19-64. As such, Petitioner's only potential MA category is through HMP.

MDHHS initially alleged that Petitioner was properly denied MA benefits due to Petitioner's alleged failure to return a Health Care Coverage Determination Notice (Exhibit A, pp. 16-19). A Health Care Coverage Determination Notice (HCCDN) dated October 26, 2018, reflected that Petitioner was denied HMP due to excess income. As excess income was the written basis for HMP denial, it will be accepted as the official reason that MDHHS denied HMP to Petitioner.

HMP financial eligibility for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size. 42 CFR 435.603 (h)(1). In determining current monthly or projected annual household income and family size, MDHHS may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3). Such future increase or decrease in income or family size must be verified in the same manner as other income and eligibility factors, in accordance with the income and eligibility verification requirements at § 435.940 through § 435.965, including by self-attestation if reasonably compatible with other electronic data obtained by the agency in accordance with such sections. *Id.*

At the time of Petitioner's request for MA benefits, Petitioner received weekly UCB income of \$[REDACTED]. MDHHS did not provide a method for how Petitioner's income was converted into a monthly or annual amount; however, an annual income of \$[REDACTED] was listed on Petitioner's denial notice (see Exhibit A, p. 31). Simply multiplying Petitioner's weekly income by 52 results in an annual income of \$[REDACTED], a slight variance from the MDHHS calculation. For purposes of this decision, the lower amount of income (and more favorable for Petitioner) will be accepted as correct. For purposes of HMP eligibility, Petitioner's annual income is found to be \$[REDACTED].

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2018 federal poverty level is \$12,140 for a one-person group. For Petitioner to

be eligible for HMP, countable income would have to fall at or below \$16,146.20 (\$1,345.52/month). Petitioner's income exceeds HMP limits. Thus, MDHHS properly determined Petitioner to be ineligible for HMP due to excess income.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a denial of FAP benefits. MDHHS presented a Notice of Case Action verifying that denial was due to Petitioner's alleged failure to complete the interview process.

For FAP benefits, MDHHS must conduct an interview before approving benefits. BAM 115 (January 2018), p. 21. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 24. If a client misses an interview appointment, the MDHHS computer system sends a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held on the 30<sup>th</sup> day after application, if possible. *Id.*

On September 26, 2018, MDHHS mailed Petitioner written notice of a telephone-interview appointment for September 28, 2018, at 9:30 a.m. After Petitioner did not answer the specialist's phone call, MDHHS mailed Petitioner another notice on October 9, 2018, scheduling Petitioner for an interview on October 12, 2018, at 9:00 a.m. MDHHS alleged that Petitioner failed to respond to both notices which justifies denial of FAP benefits. Petitioner testified that she did not receive either MDHHS notice before her scheduled interview.

MDHHS policy does not appear to specify how much time specialists must allow for mailing when sending clients notice of interviews. An implied requirement of scheduling interviews is ensuring enough mailing time so that the client receives notice before the appointment.

MDHHS acknowledged that correspondence sent to clients are mailed the day after printing. In the present case, MDHHS mailed Petitioner's first appointment notice the day before Petitioner's scheduled interview date. The second notice provided one additional day for mailing. The limited time between MDHHS' mailing of the appointments and the appointment dates supports a conclusion that MDHHS did not provide Petitioner with proper notice of the appointments.

Petitioner's claim that she did not receive notice of either interview before her interview is particularly credible when factoring that both interviews were scheduled for the

morning. Thus, even if Petitioner received the interview notices on the day of the interview, her mail would have had to deliver in the morning of each day for Petitioner to have any chance of being aware of the scheduled interviews.

A second reason for finding an improper denial exists. MDHHS initially alleged that Petitioner failed to contact MDHHS in response to both missed interviews; Petitioner claimed otherwise. During the hearing, MDHHS acknowledged that phone records brought by Petitioner to the hearing listed a phone call from Petitioner to her specialist on the date of her first scheduled appointment. Given the evidence, Petitioner also likely contacted MDHHS after her second missed interview.

Given the evidence, MDHHS failed to properly give Petitioner proper notice of a FAP interview. Thus, MDHHS' claim that Petitioner failed to participate in the interview process was an improper reason for FAP benefit denial.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's MA request dated September 26, 2018. Concerning the denial of MA, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's request for FAP benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's FAP request dated [REDACTED] 2018;
- (2) Initiate processing of Petitioner's application subject to the finding that MDHHS failed to give proper notice of an interview.

The actions taken by MDHHS are **REVERSED**.

CG/



**Christian Gardocki**

Administrative Law Judge

for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Jessica Kirchmeier  
MDHHS-Eaton-Hearings

**Petitioner**

[REDACTED]  
[REDACTED]  
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BSC4  
M Holden  
D Sweeney  
D Smith  
EQAD  
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