



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: March 6, 2019
MAHS Docket No.: 19-000916
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 March 4, 2019, from Detroit, Michigan. The Petitioner was self-represented and appeared with a witness, [REDACTED], his former caregiver/support provider. The Department of Health and Human Services (Department) was represented by Christine Brown, Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

Did the Petitioner timely submit a hearing request for the Medical Assistance (MA) Program?

If so, did the Department properly deny Petitioner's MA program application?

FINDINGS OF FACT

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

1. Via an August 20, 2018, Notice of Case Action, Petitioner's FAP benefit rate was reduced to \$ [REDACTED] per month, effective September 1, 2018.
2. Petitioner is employed with [REDACTED] (Employer 1) and [REDACTED] (Employer 2).

3. On [REDACTED] 2018, Petitioner submitted an application for MA benefits and retroactive MA benefits for September 2018.
4. On October 19, 2018, Petitioner's MA application was denied due to excess income for the program.
5. On January 29, 2019, Petitioner submitted a hearing request disputing his current level of FAP benefits as well as the closure of his MA HMP case.

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 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 submitted his request for hearing on January 29, 2019, to dispute his FAP benefit rate. The Department last issued a decision regarding the calculation of Petitioner's FAP benefit rate on August 20, 2018. Policy provides that clients must submit their hearing request within 90 days of the Department's notice. BAM 600 (October 2018), p. 6. Policy also provides that clients may request a hearing to dispute the current level of FAP benefits at any time. BAM 600, p. 7. Since Petitioner's hearing request was not received by the Department within 90 days of its Notice of Case Action, Petitioner cannot contest his level of FAP benefits from September 2018, ongoing. However, Petitioner can contest the current level of his benefits effective January 2019, ongoing.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. For wages received weekly, the average weekly income is multiplied by 4.3. *Id.* For wages received bi-weekly, the average is multiplied by 2.15. *Id.* Finally, for wages received twice per month, the wages are added together. *Id.*

In October 2018, Petitioner submitted paystubs for his employment with Employer 1 and 2. For pay date September 21, 2018, Petitioner received \$ [REDACTED] in gross wages from Employer 1. For pay date October 5, 2018, Petitioner received \$ [REDACTED] in gross wages from Employer 1. For pay date October 5, 2018, Petitioner received \$ [REDACTED] for Employer 2. Both employers pay Petitioner on a bi-weekly basis. Therefore, Petitioner has standardized wages of \$ [REDACTED] (dropping the cents) per month from Employer 1 and \$ [REDACTED] (dropping the cents) for Employer 2. His combined monthly standardized income is \$ [REDACTED]

After consideration of income, the Department considers all appropriate deductions and expenses. There was discussion on the record of whether Petitioner was considered disabled or not. On Petitioner's application for MA benefits in October 2018, Petitioner indicated that he had a physical, mental, or emotional health condition that causes limitations in activities such as bathing, dressing, and daily chores. The Department had not yet evaluated Petitioner's disability status for purposes of MA benefits. In addition, Petitioner does not have a finding from the Social Security Administration (SSA) that he is disabled. Since there has been no determination of Petitioner's disability status by the Department or SSA, Petitioner is eligible for the following deductions to income:

- 20% Earned Income Deduction
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department budgeted \$0.00 for a child support and dependent care expense. Petitioner does not dispute that he does not have these expenses. The Department also budgeted the standard deduction of \$158.00 for a group size of one in accordance with Department policy. RFT 255 (October 2018), p. 1. After consideration of all of these expenses, Petitioner's Adjusted Gross Income (AGI) is \$ [REDACTED]

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. The Department budgeted and Petitioner agrees that he has a rental expense of \$ [REDACTED]. In addition to the rental expense, the Department properly afforded Petitioner the water and sewer standard deduction of \$ [REDACTED] because Petitioner is responsible for his water bills but his electrical and heating costs are included in his rent. BEM 554, pp. 14-15; RFT 255, p. 1. Once the rental expense and water and sewer standard are added together, 50% of Petitioner's AGI is subtracted to achieve Petitioner's Excess Shelter Deduction if he has shelter costs which are greater than 50% of his AGI. BEM 556, p. 5. Half of Petitioner's AGI is \$ [REDACTED] which is significantly greater than his shelter costs totaling \$ [REDACTED]. Therefore, Petitioner is not eligible for the Excess Shelter Deduction.

Since Petitioner has no Excess Shelter Deduction, Petitioner's net income is \$ [REDACTED]. Finally, the net income amount is compared against the FAP Issuance Table to determine Petitioner's benefit rate of \$ [REDACTED] RFT 260 (October 2018), p. 19. The Department has properly calculated Petitioner's FAP benefit rate based upon the income received in October 2018.

Medical Assistance (MA) Program

The 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.

Petitioner also requested a hearing based upon the denial of his MA application. The Department received Petitioner's request for hearing on January 29, 2019. The Department issued the Health Care Coverage Determination Notice (HCCDN) on October 19, 2018. As discussed above, the Department must receive a request for hearing within 90 days of the issuance of notice by the Department. BAM 600, p. 6. Ninety days after the issuance of the HCCDN would have been January 17, 2019. Petitioner's hearing request was not received until 12 days later. Since Petitioner's request for hearing was received after the 90-day period, Petitioner's request for hearing must be DISMISSED for lack of jurisdiction.

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 calculated Petitioner's FAP benefit rate, effective January 2019.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the MA program is **DISMISSED**.

Accordingly, the Department's decision is **AFFIRMED** as it relates to the FAP.



AMTM/jaf

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 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

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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

BSC4
M Holden
D Sweeney
D Smith
EQAD