



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: October 4, 2019  
MOAHR Docket No.: 19-009318  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 26, 2019, from Lansing, Michigan. Petitioner represented himself and his mother, [REDACTED], testified in his behalf. The Department of Health and Human Services was represented by Heather Gansener and Angela Hindenach.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and 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. Petitioner is an ongoing recipient of Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On July 15, 2019, the Department received Petitioner's Verification of Employment (DHS-38), which indicates that Petitioner is employed and is expected to work approximately 20 hours per week at a rate of \$25 per hour. Exhibit A, pp 4-7.
3. Petitioner received paychecks in the gross amounts of \$159.31 on July 1, 2019, \$4,94.75 of July 8, 2019, and \$200 on July 15, 2019. Exhibit A, p 4.

4. Petitioner receives monthly social security benefits in the gross monthly amount of \$780.
5. On July 16, 2019, the Department notified Petitioner that he is eligible for Medical Assistance (MA) with a \$50.30 premium amount as of August 1, 2019. Exhibit A, pp 11-13.
6. On July 16, 2019, the Department notified Petitioner that he is eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits as of August 1, 2019. Exhibit A, pp 14-18.
7. On August 20, 2019, the Department received Petitioner's request for a hearing protesting the Department's determination of the level of Medical Assistance (MA) and Food Assistance Program (FAP) benefits he is eligible for.

### **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.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

The medical expenses amount applied towards eligibility for FAP benefits is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2019), p 4.

Petitioner is an ongoing FAP recipient as a group of one. Petitioner received income totaling \$854.06 in July of 2019. The Department converted this income to a

prospective monthly amount of \$1,224 by multiplying the average weekly income by the 4.3 conversion factor as directed by BEM 505. Petitioner also receives social security benefits in the gross monthly amount of \$780. Petitioner's adjusted gross income of \$1,586 was determined by reducing total income by the \$158 standard deduction and a \$15 deduction for medical expenses exceeding \$35.

Petitioner is not entitled to a deduction for shelter expenses because his total shelter expenses do not exceed 50% of his adjusted gross income. Petitioner's shelter expenses were not disputed during the hearing.

Therefore, Petitioner's net monthly income is the same as his adjusted gross income. A group of one with a net income of \$1,586 is entitled to a \$15 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 22.

It should be noted that income countable towards eligibility for food assistance is determined differently than the IRS uses to determine taxable income. Therefore, the income tax return provided by Petitioner would not apply towards Food Assistance Program eligibility.

Further, if the income in this case were to be applied towards Petitioner's eligibility for FAP benefits as self-employment income, he would be required to verify all expenses in each month, or receive a flat 25% deduction as directed by BEM 502. No evidence was presented in this case that Petitioner provided verification of actual expenses for July of 2019. If this income were considered to be self-employment income, Petitioner would still be eligible for a \$15 monthly allotment of FAP benefits due to his low shelter expenses.

#### Medical Assistance (MA)

Petitioner is an ongoing recipient of MA benefits under the Freedom To Work (FTW) category. It was not disputed during the hearing that Petitioner is disabled and meets the non-financial eligibility factors of the FTW program. Department of Health and Human Services Bridges Eligibility Manual (BEM) 174 (January 1, 2017), pp 1-4.

Petitioner provided verification of a negative adjusted gross income for 2018 filed with the IRS on his personal tax return.

The Department determined that Petitioner's 2018 income was not reflective of the income that he was expected to receive in the future, and that Petitioner's income should be classified as earned income.

The evidence supports a finding that Petitioner received income totaling \$854.06 in July of 2019. Petitioner receives MA under the FTW category, which is an SSI-related Group 1 MA category.

Countable monthly income for an SSI-related MA budget is determined using BEM 530, and not BEM 505, which does not apply to MA benefits. For SSI-related MA budgets, the Department will average only self-employment income, and in this case, the Department determined that Petitioner receives earned income. For non-averaged income, the Department will budget the income for the month in which it was/will be received/available. BEM 530, p 2.

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. Department of Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2016), p 2.

Department policy is consistent with federal regulations under 42 CFR § 435.603(h) that state:

Financial eligibility for Medicaid 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.

There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138% of the federal poverty level (FPL). BEM 174, p 3. In 2019, for a group of one, 138% of the federal poverty level is a monthly income of \$1,436.35.

The hearing record does not support a finding that Petitioner receives income exceeding 138% of the federal poverty level, or that Petitioner is responsible for a monthly premium for his FTW benefits.

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 the Food Assistance Program (FAP), but did not act in accordance with Department policy when it determined Petitioner's eligibility for Medical Assistance (MA) under the Freedom To Work (FTW) category.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED with respect to the Food Assistance Program (FAP), but REVERSED with respect to Medical Assistance (MA).

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:

Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) as of August 1, 2019.

KS/hb

  
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**Kevin Scully**  
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**

Renee Olian  
322 Stockbridge  
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]