



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 23, 2019  
MOAHR Docket No.: 19-010168  
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 October 16, 2019, from Lansing, Michigan. Petitioner and [REDACTED] appeared for the hearing. The Department of Health and Human Services was represented by Valarie Foley.

**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's husband received earned income from employment in the gross bi-weekly amounts of \$1,504.50 on July 19, 2019, \$1,077.00 on August 2, 2019, \$1,509.00 on August 16, 2019, and \$1,437.00 on August 30, 2019. Exhibit A, pp 19-22.
2. On September 5, 2019, the Department notified Petitioner that she is eligible for a \$53 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 6-10.
3. On September 5, 2019, the Department notified Petitioner that she is not eligible for Food Assistance Program (FAP) benefits. Exhibit A, pp 11-14.

4. On September 17, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-4.

### **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).

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.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.<sup>1</sup>

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<sup>1</sup> Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf)

From July 19, 2019, through August 30, 2019, Petitioner and her husband received income in the average gross monthly amount of \$2,763.75, which is 196% of the federal poverty level. Petitioner's household MAGI exceeds 133% of the federal poverty level and the 5% income disregard does not make her eligible for MA benefits.

Therefore, Petitioner is not eligible for benefits under the Healthy Michigan Plan, and the hearing record supports a finding that she is not eligible under any other category either.

Petitioner is an ongoing FAP recipient as a household of two and her husband is disqualified from FAP because of his immigration status. Petitioner's husband is disqualified from FAP because he has not been in the United States for more than five years. Department of Health and Human Services Bridges Eligibility Manual (BEM) 2256 (October 1, 2019), pp 1-38.

Petitioner's spouse is a mandatory group member of Petitioner's FAP benefits group, but her income is prorated as directed by BEM 550.

Each source of income is prorated individually as follows:

1. The number of eligible FAP group members is added to the number of disqualified persons that live with the group.
2. Next the disqualified/ineligible person's income is divided by the number of persons in step 1.
3. Then the result in step 2 is multiplied by the number of eligible group members.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2017), pp 3-4.

Petitioner testified that her husband's income was unusual due to the amount of overtime he was working.

This Administrative Law Judge finds that it was reasonable to include all of the earned income as countable income, and that four bi-weekly paychecks with overtime is not an unusual circumstance supporting a finding that such income is not likely to continue. As Petitioner's household income changes, her eligibility for FAP benefits will change, and she had a duty to report such changes within 10 days to ensure an accurate determination of her eligibility for FAP benefits.

However, the Department was unable to provide sufficient testimony to explain how these paychecks were used to determine the pro rate income countable towards Petitioner's monthly allotment of FAP 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 that Petitioner is not eligible for Medical Assistance (MA) under the Healthy Michigan Plan (HMP) based on her household income, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019.

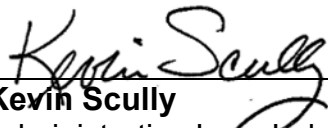
**DECISION AND ORDER**

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

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 Petitioner's eligibility for the Food Assistance Program (FAP) as of October 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**

Susan Noel  
26355 Michigan Ave  
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]