



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 30, 2019
MOAHR Docket No.: 19-010425
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, telephone hearing was held on October 24, 2019, from Lansing, Michigan. Petitioner was represented by [REDACTED]. The Department of Health and Human Services was represented by April Nemec.

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. On August 27, 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 11-16.
2. The Department received copies of paychecks showing earned income of \$538.50 on July 31, 2019, \$396.25 on August 7, 2019, \$599.90 on August 14, 2019, \$650.90 on August 21, 2019, \$625.40 on August 28, 2019, \$625.40 on September 4, 2019, and \$625.40 on September 11, 2019. Exhibit A, pp 18-21, and 32.
3. The Department received copies of bank account statements showing available cash assets of \$1,602.50 and \$9,342.99 in August of 2019. Exhibit A, pp 37-39.

4. On September 5, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) as of October 1, 2019. Exhibit A, pp 27-30.
5. On September 11, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of August 28, 2019. Exhibit A, pp 42-43.
6. On September 12, 2019, the Department received Petitioner's application for Medical Assistance (MA). Exhibit A, pp 50-54.
7. On September 13, 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 58-63.
8. On September 23, 2019, the Department received Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Exhibit A, pp 5-7.
9. On September 26, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of September 16, 2019. Exhibit A, pp 66-67.

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 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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results

in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

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.¹

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

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.

The income limit for children age 1-19 is \$160% of the federal poverty level. RFT 246.

Petitioner was an ongoing MA recipient on August 27, 2019, when the Department received Petitioner's application for FAP benefits. Petitioner submitted verification of her earned income to the Department showing gross earnings totaling \$2,185.55 from July 31, 2019, through August 21, 2019. This income is 155% of the federal poverty level. Based on this income level, Petitioner is not eligible for MA benefits under the Healthy Michigan Plan (HMP) and the 5% income disregard does not make her eligible for benefits. Petitioner's child remained eligible for MA benefits since the income limit for a child age 1-19 is 160% of the federal poverty level.

¹ 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

The Department then considered Petitioner's eligibility for MA under other categories. As a caretaker of a minor child, Petitioner is potentially eligible for coverage under the MA-G2C category.

However, unlike HMP, the MA-G2C category has an available asset limit to receive those benefits, which is \$3,000. Department of Health and Human Services Bridges Eligibility Manual (BEM) 400 (July 1, 2019), p 7. Petitioner had available cash assets exceeding \$3,000 at that time, and she was not eligible for coverage under the MA-G2C category.

There is also an available asset limit to receive FAP benefits, which is \$5,000. BEM 400, p 5. Therefore, Petitioner was not eligible for FAP benefits either.

The Department notified Petitioner that she was not eligible for MA and FAP benefits.

Petitioner then reapplied for FAP and MA benefits. The Department determined Petitioner's eligibility for FAP benefits based on her more recent earned income. Petitioner received earned income totaling \$3,127.00 from August 14, 2019, through September 11, 2019. The Department also determined that Petitioner's available cash assets had fallen below \$5,000.

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. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Petitioner's prospective gross monthly income of \$2,689 was determined by multiplying her average weekly earnings by the 4.3 conversion factor as directed by BEM 505. For a group of two where no members of the household are disabled, the gross income limit to receive FAP benefits is \$1,784. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1. Therefore, Petitioner is not eligible for FAP benefits based on her household income, and her monthly expenses do not affect this determination.

This level of income also makes Petitioner ineligible for HMP benefits. Petitioner is potentially eligible for MA-G2C based on this income, although there would be a monthly deductible. As of October 24, 2019, there has been no denial of MA-G2C coverage based on Petitioner's updated circumstances. Therefore, the Michigan Office of Administrative Hearing System (MOAHR) has not jurisdiction to make a decision on the pending determination of eligibility under the MA-G2C category at this time.

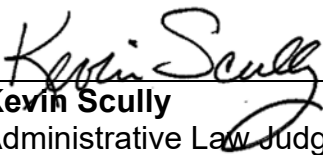
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the August 27, 2019, application for Food Assistance Program (FAP) benefits based on available assets and closed Health Michigan Plan (HMP) benefits based on gross Modified Adjusted Gross Income (MAGI). The Department was acting in accordance with Department policy when it denied the

September 13, 2019, application for Food Assistance Program (FAP) benefits based on prospective gross monthly income.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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

Tamara Morris
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County (Union), DHHS

BSC2 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]