



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: December 6, 2019
MOAHR Docket No.: 19-011948
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 4, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Morgan Hafler, Hearing Facilitator, appear as its representative.

One exhibit was admitted into evidence during the hearing. A 15-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly disqualify Petitioner for non-cooperation with the Office of Child Support?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

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 has a household size of three.
2. Petitioner receives assistance for her two children. The Office of Child Support asked Petitioner to provide information about the father of one of her children so

that it could pursue child support for Petitioner. Petitioner provided all the information that she had; Petitioner had a one-night stand and did not know how to identify the father.

3. Petitioner earns income from employment. Petitioner works as an ADA Technician for [REDACTED] where she earns \$24.00 per hour; Petitioner estimates that she works an average of 25 hours per week at [REDACTED]. Petitioner also works as a server for [REDACTED] where she earns \$20.00 per hour; Petitioner works 6-7 hours per day for [REDACTED] when the Detroit Lions have a home football game.
4. Petitioner has a housing expense of \$500.00 per month. Petitioner is responsible for her heating/cooling utilities.
5. The Department reviewed Petitioner's eligibility for assistance at Petitioner's redetermination. At that time, Petitioner provided the Department with proof of her wages at [REDACTED]; Petitioner provided check stubs that showed she received gross pay of \$600.00 on August 2, August 9, August 16, August 23, and August 30. The Department also reviewed Petitioner's pay from [REDACTED]; the Department discovered that Petitioner received gross pay of \$17.67 on August 5, \$145.12 on August 19, and \$152.89 on August 30.
6. The Department redetermined Petitioner's eligibility based on the income information it obtained. The Department disqualified Petitioner based on her alleged non-cooperation with the Office of Child Support. Based on the Department's budget and the disqualification of Petitioner, the Department determined that Petitioner's FAP benefits should be reduced and that Petitioner's MA should be closed.
7. On October 24, 2019, the Department issued notices of case action which notified Petitioner that her FAP benefit was going to be reduced to \$115.00 per month and her MA was going to be closed effective December 1, 2019.
8. On October 29, 2019, Petitioner requested a hearing to dispute the Department's decision.

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).

DISQUALIFICATION FOR NON-COOPERATION WITH CHILD SUPPORT

Custodial parents must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless they have good cause. BEM 255 (April 1, 2019), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* at 2.

In this case Petitioner is a custodial parent who receives assistance for her children. The Department asked Petitioner to provide information about the father of one of her children so that the Department could pursue child support for Petitioner. The Department did not present any evidence to establish that Petitioner had information about the father of her child that she refused to provide, and Petitioner testified that she provided all the information that she had. Based on the evidence presented, the Department did not properly disqualify Petitioner for non-cooperation with the Office of Child Support.

FOOD ASSISTANCE

The Food Assistance Program (FAP) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2018), and RFT 260 (October 1, 2018).

In this case, it appears the Department had the correct income and expense information to determine Petitioner's FAP benefit amount. However, as previously explained, the Department improperly disqualified Petitioner. Thus, the Department did not properly determine Petitioner's FAP benefit amount. The Department must redetermine Petitioner's FAP benefit amount without disqualifying Petitioner, and then the Department must issue Petitioner a new notice of her redetermined FAP benefit amount.

MEDICAL ASSISTANCE

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (January 1, 2019), p. 1. However, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (July 1, 2017), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. *Id.* at 5.

The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. BEM 211, p. 1-2. Here, Petitioner has a household size of three.

The FPL for a household size of three in 2019 was \$21,330, so 133% of the FPL is \$28,368.90 and 133% with a 5% disregard is \$29,435.40. Thus, the maximum household income for a household size of three was \$29,435.40 to be eligible for health care coverage under the Healthy Michigan Plan. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137, p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62.

In this case, Petitioner's income exceeded the limit of \$29,435.40 to be eligible for MA under the Healthy Michigan Plan. Petitioner's income exceeded \$30,000.00 per year. This is consistent with Petitioner's testimony that she earns \$24.00 per hour and works 25 hours per week. Since Petitioner's income exceeded the limit to be eligible for MA under the Healthy Michigan Plan, the Department properly found Petitioner ineligible.

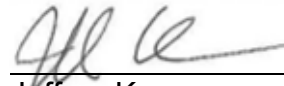
Although the Department has other programs which also provide MA, there was no evidence presented that Petitioner would have met the requirements of any of those programs to be eligible for MA.

DECISION AND ORDER

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 (a) the Department did not properly disqualify Petitioner for non-cooperation with the Office of Child Support, (b) the Department did not properly determine Petitioner's Food Assistance Program (FAP) benefit amount, and (c) the Department did properly determine Petitioner's Medical Assistance (MA) eligibility.

IT IS ORDERED the Department's decision is **REVERSED IN PART AND AFFIRMED IN PART**. The Department shall redetermine Petitioner's FAP benefit amount without disqualifying Petitioner for non-cooperation with the Office of Child Support, and then the Department shall issue a new FAP benefit notice to Petitioner. The Department shall begin to implement this decision within ten days.

JK/ml



Jeffrey Kemm
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

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI 48212

Wayne 55 County DHHS – Via Electronic
Mail

BSC4 – Via Electronic Mail

Office of Child Support – Via Electronic
Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Petitioner

[REDACTED]