



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 20, 2019
MOAHR Docket No.: 19-012481
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 19, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Nicole Carey, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefit 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. On [REDACTED], 2019, Petitioner submitted an application for FAP and MA benefits.
2. Petitioner's group consisted of herself and her two minor children.
3. Petitioner had income from employment (Exhibit A, pp. 5-6).
4. On November 14, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FAP application was denied (Exhibit A, pp. 9-13).
5. The Department denied Petitioner's and Petitioner's children's MA application.

6. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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).

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.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED] 2019. The Department sent Petitioner a Notice of Case action on November 14, 2019, stating her FAP application was denied for exceeding the gross income limit. A non-Senior, Disabled, Veteran (SDV) FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250. The Department presented a FAP budget to establish that Petitioner exceeded the gross income limit for her group size (Exhibit A, pp. 7-8).

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), pp. 1-2. 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. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (October 2019), pp. 6-7.

Per the budget provided, the Department determined that Petitioner had \$[REDACTED] in countable household earned income. The Department presented pay statements submitted by Petitioner. Petitioner was paid on October 4, 2019, in the gross amount of \$[REDACTED] and on October 18, 2019, in the gross amount of \$[REDACTED]. Petitioner was paid biweekly. When averaging the payment amounts and multiplying by the 2.15 multiplier, it results in a monthly income of \$[REDACTED]. It is unclear how the Department obtained the [REDACTED] figure. However, the error was harmless, as it was in Petitioner's favor.

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2016), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a three-person FAP group, the applicable 200% gross income limit is \$3,556. As Petitioner's household gross income was \$[REDACTED] or \$[REDACTED], as determined by the Department, the gross income limit for FAP eligibility was exceeded. Thus, Petitioner is not entitled to FAP benefits and the Department properly denied her application.

MA

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 Department testified that Petitioner's and Petitioner's children's MA applications were denied. The Department testified that the denial was in error. The Department stated that an error occurred when processing the MA application, in that each individual was placed in their own group, with a group size of one. The Department testified that it was in the process of attempting to correct the error but had to create a help-desk ticket to resolve the issue. The Department stated that as of the date of the hearing, the MA application was still in the status of a denial. As the Department conceded the denial was an error, the Department did not act in accordance with policy when it denied Petitioner's and Petitioner's children's MA applications.

DECISION AND ORDER

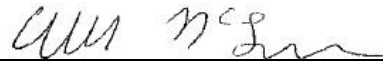
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's FAP application. The Department did not act in accordance with Department policy when it denied Petitioner's and Petitioner's children's MA application.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP program and **REVERSED IN PART** with respect to the MA program.

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:

1. Reinstate Petitioner's and Petitioner's children's [REDACTED], 2019 MA application;
2. If Petitioner and Petitioner's children are eligible for MA benefits, provide them with coverage they are entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore

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

Via Email:

MDHHS-Wayne-57-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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