



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], MI [REDACTED]

Date Mailed: March 2, 2020  
MOAHR Docket No.: 19-013897  
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 February 27, 2020, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Melissa Stanley and Rollin Carter.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly deny Food Assistance Program (FAP) and Medical Assistance (MA) 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 [REDACTED] [REDACTED] 2019, the Department received Petitioner's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Exhibit A, pp 6-12.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 15.
3. Petitioner's spouse receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 16.
4. Petitioner reported having an obligation to pay rent of \$750 monthly. Exhibit A, p 12.
5. On June 27, 2019, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as a household of two based on household income. Exhibit A, pp 4-5.

6. On July 31, 2019, the Department received Petitioner's request for a hearing protesting his eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Exhibit A, pp 2-3.

### **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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Spouses that live together must be included in the same FAP benefit group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

The Medical Expenses amount 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, 2013), p 4.

On [REDACTED] [REDACTED] 2019, the Department received Petitioner's application for assistance as a household of two. Petitioner and his spouses received a total income in the gross monthly amount of \$ [REDACTED] which is 206% of the federal poverty level for a household of two in 2019. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing household gross income by the \$158 standard deduction and a \$259 medical deduction. Petitioner is entitled to a deduction for medical expenses that exceed \$35 as directed by BEM 556.

Petitioner is entitled to a deduction for shelter expenses. Petitioner reported on his [REDACTED] [REDACTED] 2019, application for assistance that he is responsible for heat, electricity, air conditioning, water/sewer, and phone. No evidence or testimony was presented on the record that Petitioner failed to provide the Department with verification of his monthly shelter expenses. Although it was not disputed during the hearing, the Department did not grant the standard heat and utility deduction despite the fact that Petitioner had reported on his application for assistance that he is responsible for heat expenses not included in rent.

The excess shelter deduction is determined by reducing the total of monthly shelter expenses by half of the adjusted gross income as directed by BEM 556. Petitioner is responsible for monthly rent of \$750 and should have been entitled to a \$543 standard heat and utility deduction. Clients that received the heat and utility deduction are not entitled to any of the other shelter deductions that Petitioner was given. If the Department had applied the standard heat and utility deduction, Petitioner would have received a \$48 excess shelter deduction.

The Department did not properly apply the excess shelter deduction, but if a \$48 excess shelter deduction had been applied, Petitioner would still not have been eligible for any FAP benefits based on a net income of \$ [REDACTED]. The monthly income limit for a household of two is \$2,264, which is 165% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

The evidence supports a finding that the Department did not properly determine Petitioner's shelter expenses.

However, Petitioner has the burden of establishing that he is eligible for FAP benefits, and Petitioner would not have been eligible for any FAP benefits if his shelter expenses had been properly determined.

The Healthy Michigan Plan (HMP) is a full coverage category of Medicaid. 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.

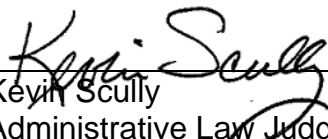
For a household of two in 2019, Petitioner and his spouse received gross income that was 206% of the federal poverty level. Since their combined gross monthly income exceeded 133% of the federal poverty level, Petitioner and his spouse were not eligible for HMP benefits as of June 17, 2019.

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 application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits based on his gross household income.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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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**

Kathleen Verdoni  
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PO Box 5070  
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48607

Saginaw County DHHS- via electronic  
mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED] - via first class mail  
[REDACTED]  
[REDACTED], MI  
[REDACTED]