



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 6, 2020  
MOAHR Docket No.: 20-000973  
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 March 5, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Katelyn Deitzen, Eligibility Specialist, and Heather Gansemer, Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 30-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUES**

Did the Department properly close Petitioner's Medical Assistance (MA) effective February 1, 2020, due to excessive income?

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective February 1, 2020, due to excessive income?

### **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 received MA and FAP benefits from the Department.
2. Petitioner had a household size of one.

3. Petitioner received income from employment at [REDACTED]
4. On January 6, 2020, the Department became aware of Petitioner's employment at [REDACTED]. The Department instructed Petitioner to provide information about her employment.
5. Petitioner provided check stubs to the Department, which showed her earnings. Petitioner received [REDACTED] from [REDACTED] for two weeks of pay on November 29, 2019, and Petitioner received [REDACTED] from [REDACTED] for two weeks of pay on December 13, 2019. Petitioner received [REDACTED] from [REDACTED] for one week of pay on January 6, 2020, and Petitioner received [REDACTED] from [REDACTED] for one week of pay on January 13, 2020.
6. The Department reviewed Petitioner's earnings and determined that Petitioner's earnings exceeded the limits to be eligible for MA and FAP benefits.
7. On January 15, 2020, the Department mailed Petitioner a healthcare coverage determination notice which notified Petitioner that she was no longer eligible for MA effective February 1, 2020, because her income exceeded the limit. The Department also mailed Petitioner a notice of case action which notified Petitioner that she was no longer eligible for FAP benefits effective February 1, 2020, because her income exceeded the limit.
8. On January 31, 2020, 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).

### **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.

In this case, Petitioner is disputing the Department's decision to find her ineligible for MA based on her income. Petitioner had been receiving MA through the Department's Healthy Michigan Plan.

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.

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. *Id.* at 1-2. Here, Petitioner has a household size of one because she is not married and does not claim any dependents.

The FPL for a household size of one in 2020 is \$12,760, so the maximum household income for a household size of one is \$16,970.80 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.

Petitioner's household income exceeded the limit of \$16,970.80 to be eligible for MA under the Healthy Michigan Plan. Based on the evidence presented, Petitioner's annual household income was more than [REDACTED]. Since Petitioner's income exceeded the limit to be eligible for MA under the Healthy Michigan Plan, the Department properly found Petitioner ineligible and closed her MA.

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.

## 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.

In this case, Petitioner is disputing the Department's decision to find her ineligible for FAP benefits based on her income. Petitioner had been receiving FAP benefits of \$194.00 per month.

FAP benefits are income based. A non-categorically eligible household (without senior/disabled/veteran status) must have income below the gross income limit to be eligible for FAP benefits. BEM 550 (January 1, 2017), p. 1. Effective October 1, 2019, the gross income limit for a household size of one was \$1,354.00 per month. RFT 250 (October 1, 2019).

Petitioner's household income exceeded the limit of \$1,354.00 per month to be eligible for FAP benefits. Based on the evidence presented, Petitioner's monthly household income was more than [REDACTED]. Since Petitioner's income exceeded the limit to be eligible for FAP benefits, the Department properly found Petitioner ineligible and closed her FAP benefits.

### **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 act in accordance with its policies and the applicable law when it closed Petitioner's MA effective February 1, 2020, due to excessive income, and (b) the Department did act in accordance with its policies and the applicable law when it closed Petitioner's FAP benefits effective February 1, 2020, due to excessive income.

IT IS ORDERED that the Department's decision is AFFIRMED.

JK/ml



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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**

Kalamazoo County DHHS – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail

[REDACTED]  
[REDACTED], MI [REDACTED]