



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: June 18, 2020  
MOAHR Docket No.: 20-002615  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 June 11, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Belita Howard, Assistance Payments Supervisor. During the hearing, a 248-page packet of documents was offered and admitted into evidence as Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medicaid (MA) benefits, effective March 1, 2020?

Did the Department properly determine that Petitioner was ineligible for Food Assistance Program (FAP) benefits, effective March 1, 2020?

### **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 was an ongoing recipient of FAP and MA benefits from the Department.
2. At the relevant time period, Petitioner was co-owner of two businesses that he had not disclosed to the Department. At some point, the Department requested information concerning those businesses. Petitioner timely returned copious documentation concerning his business finances. Exhibit A, pp. 14-229.

3. On February 14, 2020, the Department issued to Petitioner a Notice of Case Action informing him that his income was too high for FAP eligibility. According to that document, the Department calculated that Petitioner had MONTHLY earnings of \$█████████ Exhibit A, pp. 242-246.
4. On February 14, 2020, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his income was too high for MA eligibility. According to that document, the Department calculated that Petitioner had ANNUAL earnings of \$█████████. Exhibit A, pp. 236-241.
5. On ██████████ 2020, Petitioner submitted to the Department a request for hearing objecting to the closure of the MA and FAP cases.

### **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 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.

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.

In this case, Petitioner challenged the closure of his MA and FAP cases for having excess income. Petitioner stated that his income was nowhere near as high as the amounts relied upon by the Department in determining his ineligibility. At the hearing, the Department was unable to show that either number used by the Department was reliable.

When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600 (July 2019), p. 1. In preparation for the hearing, the Department

is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action or Health Care Coverage Determination Notice and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, pp. 37-38. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, pp. 39-40.

The Department bears the burden of proof and has an obligation to provide at hearing the documentary support for its decision. The Department's inability to explain how it reached its wildly divergent income conclusions lead to the inevitable conclusion that the Department failed to meet its burden of proving that it correctly determined Petitioner's eligibility for MA and FAP benefits, effective March 1, 2020.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA and FAP benefits cases, effective March 1, 2020.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for MA and FAP benefits, effective March 1, 2020, ongoing;
2. If any eligibility-related factors need clarification, follow Department policy concerning verifications;
3. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued;

4. Notify Petitioner in writing of its decisions.

JM/tm



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**John Markey**  
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**

Chelsea McCune  
27690 Van Dyke  
Warren, MI  
48093

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: FAP: M. Holden; D. Sweeney  
MA- Deanna Smith; EQADHShearings  
Macomb County AP Specialist (4)