



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: April 21, 2023  
MOAHR Docket No.: 23-001143  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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 April 12, 2023, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Malia Overstreet, Eligibility Specialist; and Ahmed Elahrag, Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-45.

### **ISSUES**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's eligibility for 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 January 17, 2023, a verification checklist was issued requesting verification of unearned income by a January 27, 2023 due date. (Exhibit A, pp. 44-45)
2. On January 18, 2023, Petitioner submitted a Redetermination. Petitioner reported assets including two bank accounts, a checking account with \$521.74 and a savings account with \$3,160.56. (Exhibit A, pp. 10-14)

3. The Department verified that Petitioner had income of Retirement, Survivors, Disability Insurance (RSDI) of [REDACTED] (Exhibit A, pp. 15-17)
4. On January 24, 2023, a Verification Checklist was issued requesting verification of Petitioner's checking and savings accounts by a February 3, 2023 due date. (Exhibit A, pp. 41-43)
5. On January 25, 2023 and January 26, 2023, the Department contacted Sedgwick to verify income Petitioner receives as Worker's compensation payments from [REDACTED] of [REDACTED] monthly. (Exhibit A, pp. 1, 20-21, 30, and 38)
6. On February 2, 2023, the Department received verification of Petitioner's checking and savings accounts. (Exhibit A, pp. 35-36)
7. The Department determined that Petitioner's monthly gross income was [REDACTED] and her monthly net income was [REDACTED], which exceeds the applicable income limits. (Exhibit A, pp. 6-7 and 30)
8. The Department determined that Petitioner had countable assets totaling \$2,200.88, which exceeded the applicable asset limit of \$2,000.00. (Exhibit A, p. 34)
9. On February 8, 2023, a Healthcare Coverage Determination Notice was issued to Petitioner denying MA effective March 1, 2023, because the value of Petitioner's assets was higher than allowed for this program. (Exhibit A, pp. 31-33)
10. On March 1, 2023, Petitioner filed a hearing request contesting the Department's determinations. (Exhibit A, pp. 3-4)
11. On March 7, 2023, a Benefit Notice was issued to Petitioner stating FAP was terminated effective February 1, 2023 based on income exceeding program limits. (Exhibit A, pp. 6-9)
12. The Department re-determined Petitioner's eligibility for MA and determined Petitioner's total countable assets were \$1,135.07, which is under the asset limit. Petitioner was eligible for Group 2 MA with a monthly deductible of \$4,013.00. (Exhibit A, pp. 1 and 39-40; Supervisor Testimony)
13. Petitioner submitted a medical bill on March 1, 2023, which was being processed at the time the Hearing Summary was prepared. (Exhibit A, p. 1)

## **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.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, April 1, 2022, p. 1. For FAP, the group loses its right to uninterrupted FAP benefits if it fails to do any of the following: file the FAP redetermination by the timely filing date; participate in the scheduled interview; or submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 22. If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 22.

In general, verification is to be obtained when: required by policy; required as a local office option; and when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application and at redetermination as well as for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2022, pp. 1-3.

For FAP, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. In calculating the FAP budget, the entire

amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. A person at least 60 years old is considered a senior. BEM 550, January 1, 2022, p. 1. The Department counts the gross workers compensation payment as unearned income. BEM 503, January 1, 2023, p. 42. For a group size of one, the FAP standard deduction is \$193.00. RFT 255, February 1, 2023, p. 1. For a group size of one, the FAP gross income limit was \$1,473.00 and the net income limit was \$1,133.00. RFT 250, October 1, 2022, p. 1.

In this case, Petitioner was [REDACTED] years old as of [REDACTED], 2023. (Exhibit A, p. 30). Accordingly, Petitioner would be considered a senior and must have income below the net income limit to qualify for FAP. The Department verified that Petitioner had monthly RSDI income of [REDACTED] (Exhibit A, pp. 15-17). On January 25, 2023 and January 26, 2023, the Department contacted Sedgwick to verify income Petitioner receives as worker's compensation payments from [REDACTED] of [REDACTED] monthly. (Exhibit A, pp. 1, 20-21, 30, and 38). The Department determined that Petitioner's monthly gross income was [REDACTED] and her monthly net income was [REDACTED]. (Exhibit A, pp. 6-7 and 30). Petitioner's monthly net income of [REDACTED] exceeds the applicable net income limit of \$1,133.00.

Petitioner asserted that she had been told the worker's compensation payments would not be counted. (Petitioner Testimony) Pursuant to the BEM 503 policy, the Department counts the gross workers compensation payment as unearned income. Accordingly, the denial of FAP eligibility for a new benefit period starting March 1, 2023 must be upheld.

Regarding the Medicaid determination, the Department has acknowledged that the February 8, 2023, denial that was to be effective March 1, 2023 was in error. The Department has since re-determined Petitioner's eligibility for MA approving MA with a monthly deductible. (Exhibit A, p. 1). The evidence indicates the new MA determination was made after Petitioner's March 1, 2023 hearing request was filed. Accordingly, the MA portion of Petitioner's March 1, 2023 hearing request is dismissed because the contested February 8, 2023 determination has been corrected. If Petitioner disagrees with the new determination, a new timely hearing request must be filed to contest the recent case action.

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 eligibility for FAP. Further, the MA portion of Petitioner's March 1, 2023 hearing request is dismissed because the contested February 8, 2023 determination has been corrected.

**DECISION AND ORDER**

Accordingly, the MA portion of Petitioner's March 1, 2023 hearing request is **DISMISSED** and the Department's FAP determination is **AFFIRMED**.

CL/ml

  
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Colleen Lack  
Administrative Law Judge

**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 Electronic Mail :**

**DHHS**  
Courtney Jenkins  
Washtenaw County DHHS  
22 Center Street  
Ypsilanti, MI 48198  
**MDHHS-Washtenaw-  
Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]