



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

██████████  
██  
██

Date Mailed: August 1, 2023  
MOAHR Docket No.: 23-003659  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**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 July 26, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Emily Camp, Family Independence Manager, and Annette Gillespie, Family Independence Specialist.

**ISSUES**

1. Did MDHHS properly close Petitioner’s Food Assistance Program (FAP) case due to excess gross income?
2. Did MDHHS properly update Petitioner’s Medical Assistance (MA) coverage?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

3. Petitioner was an ongoing recipient of FAP for a group size of two, consisting of her minor son and herself. Petitioner is not a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
4. On September 27, 2021, Petitioner began to work for ██████ ██████ (Employer), earning \$16.89 hourly and paid biweekly (Exhibit A, pp. 16-19).
5. Petitioner receives inconsistent child support (Exhibit A, pp. 20-21).

6. On May █ 2023, Petitioner submitted a renewal of MA form to MDHHS, reporting that she has earned income from Employer (Exhibit A, pp. 6-8).
7. On June █ 2023, MDHHS issued a Notice of Case Action, informing Petitioner that her FAP case will be closed, effective July 1, 2023, due to excess gross income. MDHHS calculated Petitioner's gross income to be \$ █ (Exhibit A, pp. 23-26).
8. On June █ 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that her MA Healthy Michigan Plan (HMP) coverage will be closed, effective July 1, 2023. Petitioner's MA coverage would then be under the Plan First program. Petitioner's son's MA coverage remains unchanged (Exhibit A, pp. 27-31).
9. On June 23, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case based on excess gross income and to dispute the change in her MA coverage (Exhibit A, pp. 4-5).

### **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).

#### **Food Assistance Program (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.

On May █ 2023, Petitioner submitted a redetermination of MA benefits to MDHHS, reporting her income information from Employer. MDHHS then used this income information to review Petitioner's FAP eligibility. MDHHS is required to evaluate each change reported and determine if it affects eligibility. BAM 220 (April 2023), p. 1. When MDHHS updated Petitioner's FAP household budget, they determined that she was over the gross income limit for eligibility.

All FAP groups which do not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member, such as Petitioner's, must have income below the Gross Income Limit and the Net Income Limit. BEM 550 (April 2023), p. 1. Petitioner confirmed that her household is a group size of two and does not contain a S/D/V member. At the time of Petitioner's redetermination, the Gross Income Limit for a group size of two was \$1,984.00 and the Net Income Limit was \$1,526.00. RFT 250 (October 2022), p. 1.

MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 12-14). During the hearing, all relevant budget factors were discussed with Petitioner.

MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, MDHHS 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 (October 2022) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505 pp. 8-9.

In this case, MDHHS testified that they relied upon income information received from the Work Number report, which receives income information directly from Employer (Exhibit A, pp. 16-17). MDHHS then converts this income to a standard monthly amount. Petitioner asserted that her overtime is atypical and should not be included in her budget. Petitioner's work hours appear to average between 80-84 hours per pay period, with no paychecks needing to be excluded as unusual. Upon review, MDHHS correctly averaged the two paychecks that Petitioner received in May 2023 with the paycheck that Petitioner received in June, then converted to a standard monthly amount for biweekly pay by multiplying the average pay by 2.15:

$$\begin{aligned} & \$\blacksquare + \$\blacksquare + \$\blacksquare = \blacksquare \\ & \text{Divided by 3} = \blacksquare \\ & \blacksquare \text{ Multiplied by 2.15} = \blacksquare \end{aligned}$$

Since this amount is over the gross income limit of \$1,984.00, MDHHS acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits due to excess gross income.

### **Medical Assistance (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.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105 (January 2021), pp. 1-2. Petitioner was receiving MA under the Healthy Michigan

Program. Upon review, MDHHS determined that she was no longer eligible for HMP and updated her MA category to Plan First.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. HMP provides health care coverage for individuals who:

- Are 19-64 years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- **Have income at or below 133 percent Federal Poverty Level (FPL).**

BEM 137 (June 2020), p. 1 (Emphasis Added).

Petitioner does not assert that she meets any non-financial eligibility criteria to qualify for coverage under HMP. MDHHS determined that Petitioner no longer qualified for HMP since her countable income exceeds the income limit. MDHHS determined that Petitioner's annual income amount is \$[REDACTED] for a group size of two.

The 2023 FPL (federal poverty level) for a group size of two is \$19,720.00 or \$1,643.00 monthly. 133% of the FPL for a household size of two is \$26,228.00 annually or \$2,185.00 monthly.<sup>1</sup> As discussed, Petitioner's monthly income is \$[REDACTED]. Since Petitioner's monthly gross income exceeds 133% of the FPL, Petitioner no longer qualifies to receive MA under the HMP. Therefore, MDHHS acted in accordance with policy in closing Petitioner's HMP MA coverage.

Plan First Medicaid is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124 (July 2023), p. 1. 195% of the FPL is \$38,454.00 or \$3,204.50 monthly. Since Petitioner's income is below this amount, she qualifies for Plan First.

Therefore, MDHHS acted in accordance with policy in determining that Petitioner no longer qualified for HMP and does qualify for Plan First MA.

---

<sup>1</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>

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 MDHHS acted in accordance with Department policy when it closed Petitioner's FAP case due to excess gross income and acted in accordance with policy when it updated Petitioner's MA coverage.

**DECISION AND ORDER**

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



DN/dm

---

**Danielle Nuccio**  
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**  
Kimberly Kornoelje  
Kent County DHHS  
**MDHHS-Kent-**  
**Hearings@michigan.gov**

**HoldenM**

**SweeneyD**

**MOAHR**

**BSC3HearingDecisions**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]