



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: November 29, 2023
MOAHR Docket No.: 23-007112
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on November 20, 2023, via teleconference. Petitioner appeared and represented herself. Caitlin Dodge, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) benefits?
2. Did MDHHS properly terminate Petitioner's Medicaid (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. Petitioner was an ongoing recipient of FAP and MA benefits.
2. On September 19, 2023, Petitioner submitted a Redetermination for FAP (Exhibit A, p. 9).
3. On October 9, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was not eligible for MA, effective November 1, 2023 ongoing (Exhibit A, p. 6). MDHHS determined that Petitioner's annual income was \$ [REDACTED] (Exhibit A, p. 7).

4. On October 9, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits would be terminated, effective November 1, 2023 ongoing, because her gross income exceeded the income limit for the program (Exhibit A, p. 34).
5. On October 19, 2023, Petitioner filed a Request for Hearing (Exhibit A, p. 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 Food Assistance Program (FAP)

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner requested the hearing to dispute the termination of her FAP benefits. However, at the hearing, she testified that she now understood MDHHS' actions and that she no longer wished to proceed with the hearing on that issue. Petitioner requested to withdraw her hearing request regarding FAP on the record. MDHHS had no objection. The undersigned granted Petitioner's request after explaining the ramifications of the intended action.

Now, therefore, the matter concerning FAP is hereby **DISMISSED**, pursuant to the withdrawal of the hearing request on the record.

Medicaid (MA)

MA 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (October 2023), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage after determining that she was over the income limit for the program. Petitioner disputed this action, arguing that her hours fluctuated and that MDHHS overestimated her hours and annual pay.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* To be eligible for HMP, an individual's net income cannot exceed 133% of the Federal Poverty Level (FPL).¹ RFT 246 (April 2014), p. 1. MDHHS also applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of FPL. The 5% disregard is the amount equal to 5% of FPL, not a flat 5% disregard of income. BEM 500, p. 5.² Plan First MA is a MAGI-related limited coverage MA group. BEM 124 (July 2023), p. 1. To be eligible for Plan First, the fiscal group's net income cannot exceed 195% of the FPL. *Id.*

No evidence was admitted to show that Petitioner was eligible for SSI-related MA based on age or disability. Therefore, Petitioner was only potentially eligible for MAGI-related MA, including HMP and Plan First. MDHHS testified that it determined that Petitioner was over the income-limit for HMP based on her employment income. No testimony was given regarding Petitioner's eligibility for Plan First. Importantly, at the hearing, MDHHS could not adequately explain how it calculated Petitioner's income. The record shows that Petitioner submitted a paystub with a pay date of October 6, 2023, for the period from September 18, 2023 to October 1, 2023 (Exhibit A, p. 5). The paystub showed that Petitioner worked 62.45 hours in the pay period and earned \$ [REDACTED] in gross earnings (Exhibit A, p. 5). Another paystub was admitted showing that Petitioner received \$ [REDACTED] in gross earnings for the period from August 7, 2023 to August 20, 2023 and worked 73.30 hours in that pay period (Exhibit A, p. 18).

Petitioner testified that she informed MDHHS that her pay varied widely and that although she was scheduled to work 40 hours a week, she often worked much less. Petitioner estimated that her hours varied from 50-80 in a two-week period. Given the discrepancy between MDHHS' determination and Petitioner's reported hours, MDHHS should have attempted to verify Petitioner's hours by sending a Verification Checklist (VCL). MDHHS is required to verify eligibility factors when they are unclear, inconsistent, or contradictory. BAM 130 (October 2023), p. 1. Additionally, it is unclear why MDHHS did not request 60 or 90 days of paystubs if that information would have more accurately reflected Petitioner's income. BEM 505 (October 2023), pp. 8-9.

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 failed to satisfy

¹ Federal Poverty Level (FPL) refers to the Federal Poverty Guidelines published annually in the Federal Registrar. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

² Modified Adjusted Gross Income Related Eligibility Manual (May 2014), p. 15, available at: https://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's MA benefits.

DECISION AND ORDER

The matter concerning FAP is **DISMISSED**, pursuant to the withdrawal of the hearing request on the record.

MDHHS' decision regarding MA is **REVERSED**.

MDHHS 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. Reinstate Petitioner's MA case and determine MA eligibility from November 1, 2023 ongoing, requesting additional income information from Petitioner as necessary;
2. If eligible, provide Petitioner with MA coverage from November 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



LJ/nr

Linda Jordan
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
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Via-First Class Mail :

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