



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: December 8, 2023  
MOAHR Docket No.: 23-007254  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **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 via telephone conference line on November 30, 2023. Petitioner appeared and was represented. [REDACTED] [REDACTED] Petitioner's mother, testified on behalf of Petitioner and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Taleaka Jones, specialist.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was neither under the age of 19 years, over the age of 65 years, disabled, pregnant, nor a Medicare recipient.
2. At all relevant times, Petitioner was a tax filer with no dependents.
3. On August 4, 2023, Petitioner received gross biweekly wages of \$ [REDACTED]
4. On August 18, 2023, Petitioner received gross biweekly wages of \$ [REDACTED]

5. On October 9, 2023, MDHHS determined Petitioner was ineligible for MA benefits beginning November 2023 based on an annual income of \$ [REDACTED]
6. On October 30, 2023, Petitioner requested a hearing to dispute the termination of MA benefits. Petitioner also disputed Food Assistance Program (FAP) eligibility.
7. On November 30, 2023, Petitioner's AHR withdrew the dispute concerning FAP benefits.

### **CONCLUSIONS OF LAW**

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part to dispute FAP benefits. During the hearing, Petitioner and her AHR each stated that FAP benefits were not disputed. Based on the statements of Petitioner and her AHR, Petitioner's hearing request concerning FAP benefits will be dismissed.<sup>1</sup>

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a termination of MA benefits. Exhibit A, pp. 8-9. A Health Care Coverage Determination Notice dated October 9, 2023, stated that Petitioner was ineligible for MA benefits beginning November 2023. Exhibit A, pp. 11-14. Determining whether MDHHS properly terminated each member's MA eligibility requires a consideration of all MA categories.

The MA program includes several sub-programs or categories. BEM 105 (January 2021) 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 and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

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<sup>1</sup> Petitioner's FAP dispute appears to be connected to Michigan Office of Administrative Hearings and Rules docket number 23-006417. Docket number 23-006417 is scheduled for a hearing on December 5, 2023. The dismissal in the present case has no bearing on the outcome of docket number 23-006417.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

It was not disputed that Petitioner was aged 19-64 years, not pregnant, and not disabled. Under the circumstances, Petitioner's MA category with the highest income limit is the MAGI-related category of HMP. The notice dated October 9, 2023, stated that Petitioner was ineligible for HMP due to excess income.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.<sup>2</sup> 42 CFR 435.603(e). For individuals who have been determined financially-eligible for MA using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS elected to determine HMP eligibility based on current monthly income.<sup>3</sup>

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.<sup>4</sup> Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.<sup>5</sup>

In determining Petitioner's HMP eligibility, MDHHS factored a group of one person. Petitioner testified being a tax filer with no dependents. Under the circumstances, Petitioner's benefit group size is one (see BEM 211).

The MA termination notice stated that MDHHS calculated an annual income of \$ [REDACTED] for Petitioner. Dividing the income by 12 results in a monthly income of \$ [REDACTED]. MDHHS testified Petitioner's income was based, in part, on wages from August 2023. Pay documents verified Petitioner received wages of \$ [REDACTED] on August 4 and \$ [REDACTED] on August 18. Adding the income results in a total employment income of \$ [REDACTED]. MDHHS failed to explain how it arrived at a monthly income of \$ [REDACTED] for Petitioner other than a possibility that it incorrectly counted recently stopped Retirement, Survivors, Disability Insurance (RSDI) for Petitioner.

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<sup>2</sup> Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

<sup>3</sup> [https://www.michigan.gov/documents/mdhhs/SPA\\_17-0100\\_Approved\\_638230\\_7.pdf](https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf)

<sup>4</sup> <https://www.investopedia.com/terms/a/agi.asp>

<sup>5</sup> *Id.*

Given the evidence, MDHHS improperly calculated Petitioner's income to be \$ [REDACTED] for purposes of HMP eligibility. It cannot be stated that Petitioner is eligible for MA benefits, but the finding that MDHHS incorrectly determined Petitioner's income entitles Petitioner to a reprocessing of MA benefits beginning November 2023.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute over FAP benefits. Concerning FAP benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner's MA eligibility beginning November 2023 subject to the finding that MDHHS failed to establish that Petitioner's countable income was \$ [REDACTED] and
- (2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



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**Christian Gardocki**  
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  
MDHHS-Wayne-15-Greydale-  
Hearings@michigan.gov**

**Interested Parties**

Wayne 15 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
D. Smith  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]

**Authorized Hearing Representative**

[REDACTED]  
[REDACTED] MI [REDACTED]