



GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

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Date Mailed: January 26, 2024
MOAHR Docket No.: 23-009232
Agency No.: ██████████
Petitioner: ██████████

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 January 17, 2024, via teleconference. Petitioner appeared with the assistance of ██████████ who acted as an Arabic interpreter. Lori Turner, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS offered documents into evidence, which were admitted as MDHHS Exhibit A, pp. 1-36.

ISSUES

1. Did MDHHS properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?
2. Did MDHHS properly determine Petitioner's eligibility for 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 MA coverage.
2. On October 4, 2023, MDHHS sent Petitioner a redetermination packet for MA, which indicated that the deadline to return the form to MDHHS was November 3, 2023 (Exhibit A, p. 10). Petitioner did not return the redetermination packet to

MDHHS prior to the deadline. Petitioner's MA benefits were terminated, effective January 1, 2024 (Exhibit A, p. 1).

3. On [REDACTED], 2023, Petitioner filed a new application for MA and FAP (Exhibit A, pp. 1, 20).
4. On November 9, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of earned income for Petitioner and proof of loss of employment for household member, [REDACTED]. The deadline for the requested verifications was November 20, 2023. MDHHS denied Petitioner's application for FAP on November 21, 2023 for failing to return the requested verifications.
5. On December 4, 2023, Petitioner filed a Request for Hearing (Exhibit A, pp. 3-5).
6. On December 15, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was not eligible for MA, effective January 1, 2024 ongoing, because he failed to return the redetermination packet (Exhibit A, p. 17).
7. On December 21, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was approved for full coverage MA for the month of December 2023, and that he was approved for Plan First MA, a limited MA coverage category, effective January 1, 2024 ongoing (Exhibit A, p. 33).

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.

In this case, Petitioner filed a Request for Hearing regarding this FAP benefits. Although MDHHS did not introduce a Notice of Case Action or Verification Checklist (VCL) at the hearing, it testified that Petitioner's application for FAP was denied because it did not receive the requested verifications by the deadline.

MDHHS must obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), p. 1. To obtain verification, MDHHS must tell the

client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

At the hearing, Petitioner acknowledged that he received the VCL and that he provided copies of his paystubs. Regarding the proof of loss of employment, he testified that he was unsure about what type of verification MDHHS needed. When asked if he attempted to contact MDHHS for assistance prior to the deadline, he indicated that he did not. Based on the testimony presented at the hearing, the record shows that MDHHS requested verification of a household member's loss of employment and Petitioner did not provide it by the deadline, nor did he contact MDHHS for assistance. Petitioner was advised that he could reapply for FAP at any time.

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 denied Petitioner's application for FAP benefits.

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 the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage for failure to return the redetermination by the deadline. Petitioner subsequently reapplied for MA and MDHHS determined that he was eligible for full coverage MA in December 2023 and Plan First MA, a limited MA coverage category, effective January 1, 2024 ongoing.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022), p. 1. For MA, a redetermination is an eligibility review based on a reported change and a renewal is a full review of eligibility factors completed annually. *Id.* For Modified Adjusted Gross income (MAGI)-related MA, MDHHS must use information currently available in State of Michigan systems to renew eligibility and should not request information from the beneficiary if the information is already available to MDHHS, including completing a renewal form. *Id.* MDHHS may only request information that has changed or is missing from the beneficiary. *Id.*, p. 2. The beneficiary is not required to take any action, such as signing or returning a notice if there has been no change in their circumstances. *Id.* If the information is not sufficient to renew eligibility, MDHHS must send a pre-populated renewal form to the beneficiary and allow the beneficiary 30 calendar days to respond and return the renewal form. *Id.*

Here, MDHHS sent Petitioner a form to renew his benefits and testified that it did not receive the completed form prior to the deadline. Although Petitioner did not refute MDHHS' testimony on this issue, the record shows that Petitioner submitted a MA application on [REDACTED] 2023, prior to the renewal deadline. Because Petitioner had active MA benefits at that time, MDHHS should have processed the new application as a renewal and reviewed the application for any reported changes in circumstances. When a case is already active for program benefits and additional application(s) are received, the specialist must review the application for changes in circumstances and either complete a redetermination or deny the programs requested because they are already active. BAM 110 (October 2022), p. 8.

At the hearing, MDHHS testified that Petitioner was receiving Healthy Michigan Plan (HMP) MA, which ended on December 31, 2023. Beginning January 1, 2024 ongoing, MDHHS approved Petitioner for Plan First MA, a limited coverage category. Although it is unclear whether MDHHS properly processed Petitioner's application as a MA renewal, the record shows that MDHHS' action did not lead to a gap in MA coverage. Therefore, this decision will address MDHHS' determination that Petitioner was only eligible for Plan First MA beginning January 1, 2024.

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.*

HMP MA provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (June 2020), p. 1. HMP is based on MAGI methodology. *Id.* To be eligible for HMP, an individual's income must be at or below 133% of the Federal Poverty Level (FPL). *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility

factors and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1. 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.*

No evidence was presented that Petitioner was aged (65 or older), currently or formerly disabled or entitled to Medicare. Therefore, Petitioner was only potentially eligible for a MAGI-related MA category, such as HMP or Plan First.

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. MDHHS determined that Petitioner had a household-size of one and that his annual income was \$██████████ (Exhibit A, p. 33).

An individual's group size for MAGI purposes requires consideration of the client's tax filing status or, if not a tax filer, the individual's household. 42 CFR 435.603(f)(1). If the individual is not claimed as a tax dependent and expects to file a tax return for the taxable year in which an eligibility determination is made, the household consists of the taxpayer and all persons the individual expects to claim as a tax dependent. 42 CFR 435.603(f)(1). Petitioner reported living in a household with his adult daughter, granddaughter and adult relative (Exhibit A, pp. 22-23). Petitioner reported that he was not claiming any dependents on his tax return (Exhibit A, p. 23). Therefore, MDHHS properly determined that Petitioner had a household size of one for the purposes of MAGI-related MA.

MDHHS budgeted ██████████ in annual income for Petitioner, which is \$██████████ per month. Petitioner did not dispute that amount. HMP income limits are based on 133% of the Federal Poverty Level (FPL).¹ RFT 246 (April 2014), p. 1. MDHHS also applies a 5% disregard to the income limit for MAGI-related MA when the disregard is the difference between eligibility and non-eligibility. BEM 500 (April 2022), p. 5. Thus, HMP income limits are functionally 138% of FPL. The 5% disregard is the amount equal to 5% of the FPL, not a flat 5% disregard of income. BEM 500, p. 5; *See also*: Modified Adjusted Gross Income Related Eligibility Manual (May 2014), p. 15, *available at*: https://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

In 2024, 100% of FPL was \$15,060 annually for a one-person household residing in the contiguous 48 states. For Petitioner to be eligible for HMP MA in 2024, his net income would have to be at or below \$20,782.80 per year or \$1,731.90 per month, which represents 138% of FPL. Persons with income at or below 200% of FPL (applying the 5% disregard), which was \$30,120.00 annually or \$2,510.00 monthly in 2024, can qualify for Plan First MA. Thus, the record shows that Petitioner was over the income limit for HMP MA and eligible for Plan First MA.

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>.

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, MDHHS acted in accordance with Department policy when it approved Petitioner for Plan First MA.

DECISION AND ORDER

Accordingly, MDHHS' decisions are **AFFIRMED**.



LJ/tm

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 :

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