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GOVERNOR

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

[REDACTED], MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 24-001423
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 March 14, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined 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. On November 17, 2023, Petitioner submitted to MDHHS redetermination documents for continuing FAP benefits and reported a household including his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse") and their minor child.
2. As of November 2023, Petitioner, Spouse, and Daughter were neither over the age of 60 years, disabled, nor disabled veterans.

3. As of November 2023, Petitioner and Spouse were between 19-65 years of age, non-disabled, not recipients of Medicare, not pregnant, and tax filers with one dependent child.
4. In January 2024, Spouse's weekly gross wages included the following: \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]
5. On January 26, 2024, MDHHS determined Petitioner and Spouse were eligible for the limited-coverage MA category of Plan First beginning February 2024.
6. On February 5, 2024, Petitioner requested a hearing to dispute the reduction in FAP benefits and termination of full-coverage Medicaid.
7. On February 20, 2024, MDHHS determined Petitioner to be eligible for \$130 in monthly FAP benefits beginning February 2024.

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 BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a reduction in FAP benefits.¹ Exhibit A, pp. 3-4. A Notice of Case Action dated February 20, 2024, stated that Petitioner was eligible for \$130 in monthly FAP benefits beginning February 2024.² Exhibit A, pp. 23-26.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. The notice of FAP benefits included all FAP net income factors. Exhibit A, pp. 23-36. During the hearing, all relevant budget factors were discussed with Petitioner.

¹ Petitioner specifically disputed a reduction to \$69 per month. A reduction to \$69 was consistent with a March FAP budget. Exhibit A, pp. 35-36. However, MDHHS testimony insisted Petitioner was eligible for \$130 in FAP benefits after Petitioner reported an increase in housing costs.

² The notice also stated that Petitioner was ineligible for FAP benefits in January 2024. Because the ineligibility of FAP benefits was not raised by Petitioner in testimony or the hearing request, it is presumed that January's FAP eligibility is either not disputed or is included within the dispute over \$130 in FAP benefits.

Redetermination documents from Petitioner submitted to MDHHS on November 17, 2023, reported a household including Petitioner, Spouse, and their minor child. Exhibit A, pp. 11-15. Accordingly, MDHHS factored a benefit group of three persons.³

It was not disputed that Petitioner's only household income came from Spouse's wages. MDHHS calculated \$[REDACTED] in monthly wages for Spouse. Pay documents submitted with Petitioner's hearing request verified that Spouse received the following gross weekly pays in January 2024: \$[REDACTED], \$[REDACTED], \$[REDACTED] and \$[REDACTED]. Exhibit A, pp. 5-8. For FAP benefits, MDHHS generally counts gross wages.⁴ BEM 501 (January 2020), p. 6. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. Stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8. Multiplying Spouse's average weekly gross employment income by 4.3 results in a monthly income of \$[REDACTED] the same amount calculated by MDHHS.

Petitioner claimed that Spouse's income has decreased since January 2024. Petitioner also claimed he submitted updated wage documents to MDHHS to verify the decrease; however, Petitioner did not make this claim in his hearing request. In fact, the documents used by MDHHS to calculate Spouse's income were submitted with Petitioner's hearing request. MDHHS testimony credibly denied receiving any other documents from Petitioner since he requested a hearing. The evidence established that MDHHS properly calculated Spouse's gross monthly wages to be \$[REDACTED].

MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$[REDACTED] (dropping cents).

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. BEM 554 (October 2022) p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

Petitioner did not allege that any benefit group members were senior, disabled, or aged. Without any SDV members, medical expenses are not applicable. Petitioner's testimony denied having any dependent care or child support expenses. Petitioner's non-shelter expenses are \$0.

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$198) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$2,863) results in an adjusted gross income of \$ [REDACTED]

MDHHS credited Petitioner with monthly housing expenses of \$1,200. Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,880.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$548 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$ [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁶ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for February 2024 is \$130: the same amount calculated by MDHHS. The evidence established that MDHHS properly determined Petitioner's FAP eligibility beginning February 2024.

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 MA eligibility for himself and Spouse. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice (HCCDN) dated

⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

⁶ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

January 26, 2024, stated that Petitioner and Spouse were eligible only for the limited-coverage MA category of Plan First beginning February 2024.⁷ Exhibit A, pp. 23-26.

The Medicaid program includes several sub-programs or categories. BEM 105 (January 2020) 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.* Medicaid 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.*

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.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

As of the disputed benefit month, Petitioner and Spouse were each not pregnant, not disabled, not a recipient of Medicare, and aged 19-64 years. Under the circumstances, Petitioner and Spouse are only potentially eligible to receive unlimited Group 1 MA benefits under HMP. MDHHS testimony stated that Petitioner's group 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.⁸ 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid 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 has chosen to determine HMP eligibility based on current monthly income.⁹

Modified adjusted gross income can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.¹⁰ Common

⁷ Plan First is a limited-coverage MA category available to any United States citizen or individual with a valid immigration status. BEM 124 (July 2023) p. 1. Generally, its coverage is limited only to family planning services. (see Form DCH-2840-MSA)

⁸ 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.

⁹ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

¹⁰ <https://www.investopedia.com/terms/a/agi.asp>

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.¹¹

Group composition for MAGI-related categories follows tax filer and tax dependent rules. BEM 211 (July 2019) p. 1. Generally, the household for an individual who is a tax dependent of someone else, consists of the household of the tax filer claiming the individual as a tax dependent. *Id.*, p. 2. Petitioner reported a household including Spouse and a minor child. Presumably, Petitioner and Spouse are tax filers with one dependent. Under the circumstances, Petitioner's MAGI group size is three persons.

As discussed in the FAP benefit analysis. Spouse received the following weekly gross income in January 2024: \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED] Exhibit A, pp. 5-8. Unlike for FAP benefits, MDHHS does not require a multiplier when converting weekly income into monthly income to determine MA eligibility. Adding Spouse's weekly gross income from January 2024 results in a gross monthly amount of \$ [REDACTED] (dropping cents). Multiplying the income by 12 results in an annual income of \$ [REDACTED]

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014) p. 1. Also, MDHHS 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 the FPL. The 2023 federal poverty level is \$25,820 for a three-person group.¹² Multiplying the FPL by 1.38 results in an income limit of \$ [REDACTED] Petitioner's group's income exceeded the HMP income limit. Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First (see BEM 124). Given the evidence, MDHHS properly determined Petitioner's and Spouse's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's and Spouse's FAP and MA eligibility beginning February 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

¹¹ *Id.*

¹² <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

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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