



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
DIRECTOR



Date Mailed: May 23, 2024
MOAHR Docket No.: 24-004128
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 May 15, 2024. Petitioner appeared and was unrepresented. [REDACTED] [REDACTED] Petitioner's landlord, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, supervisor.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second 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. As of October 2023, Petitioner was an ongoing recipient of MA benefits.
2. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP and MA benefits.
3. On November 15, 2023, MDHHS denied Petitioner's FAP benefit application due to Petitioner's alleged failure to be interviewed within 30 days of the application date.

4. In 2024, Petitioner received gross monthly Retirement, Survivors, Disability Insurance (RSDI) of \$1,436.70.
5. On February 16, 2024, MDHHS initiated termination of Petitioner's MA eligibility beginning March 2024 due to an alleged failure to return a Redetermination form.
6. On March 29, 2024, Petitioner requested a hearing to dispute the denial of FAP and termination of MA benefits.
7. On April 15, 2024, MDHHS determined that Petitioner was eligible only for the limited-coverage MA category of Plan First beginning March 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 denial of FAP eligibility. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] 2023. Exhibit A, pp. 6-15. A Notice of Case Action dated November 15, 2023, stated that Petitioner's application was denied due to Petitioner failing to be interviewed. Exhibit A, pp. 27-30.

MDHHS presented evidence such as Appointment Notices sent for interviews that were mailed to Petitioner (Exhibit A, p. 26), a Notice of Missed Appointment dated after Petitioner allegedly missed an interview (Exhibit A, p. 25), and case comments documenting that Petitioner was called twice for an interview (Exhibit A, pp. 17-20). Petitioner's hearing request claimed that MDHHS never called him for an application interview. Exhibit A, p. 4. Ultimately, whether MDHHS properly denied Petitioner's application due to his failure to be interviewed is irrelevant.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. Hearing requests to dispute FAP benefits may be verbal. *Id.*

Petitioner submitted to MDHHS a hearing request to dispute FAP eligibility on March 29, 2024. There was no evidence of a verbal hearing request. MDHHS sent written notice of FAP application denial on November 15, 2023. Petitioner's hearing request was submitted 135 days after issuance of written notice. Because of Petitioner's untimely hearing request, the dispute concerning FAP application denial is aptly dismissed.

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 full-coverage MA benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated February 16, 2024, stated that Petitioner's MA eligibility would end March 2024 due to Petitioner's alleged failure to return a Redetermination form. Exhibit A, pp. 21-24. MDHHS testimony acknowledged that the basis for MA termination was improper which led to the sending of an updated notice. MDHHS testified that a notice dated April 15, 2024, stated Petitioner was income-eligible only for the limited-coverage MA category of Plan First beginning March 2024.¹

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* 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.*

Petitioner submitted redetermination documents to MDHHS on September 14, 2023, and reported being disabled and/or aged, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Exhibit A, pp. 9-16. Given the circumstances, Petitioner is ineligible for all full-coverage MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive full-coverage MA under the SSI-related category of Aged/Disability-Care (AD-Care).

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.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

¹ Plan First is a MAGI-related limited-coverage MA category available to any United States citizen or individual with a qualified immigration status. BEM 124 (July 2023) p. 1. Generally, Plan First coverage is limited to family planning services such as birth control (see form DCH-2840-MSA).

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,436 (dropping cents) Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard from Petitioner's RSDI results in countable income of \$1,416.

MDHHS also gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2023) p. 29. The disputed benefit month was March 2024; however, it was not established how much Petitioner's RSDI increased from 2023. RSDI increased 3.2% for RSDI recipients.³To ensure that Petitioner was not improperly denied, it will be accepted that Petitioner's RSDI increased \$100 from 2023: an increase of approximately 7%. Applying the \$100 COLA credit results in \$1,316 in countable income.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 1-person group in Michigan was \$15,060.⁴ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁵ RFT 242 (April 2024) p. 1. Petitioner's countable income of \$1,416 exceeds the AD-Care income limit.⁶ Presumably, the group's income is within the income guidelines of the limited-coverage MA category of Plan First.⁷ Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

² Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

³ <https://www.ssa.gov/cola/>

⁴ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁵ MDHHS policy lists an income limit of \$1,275 while noting that the \$20 disregard is already factored into the income limit.

⁶ Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First (see BEM 124).


⁷ Eligibility for Plan First requires an income within 195% of the federal poverty level BEM 124 (July 2023) p. 2.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute the denial of an application for FAP benefits dated [REDACTED] [REDACTED] 2023. 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 properly determined Petitioner to be eligible only for the limited-coverage MA category of Plan First beginning March 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



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

Yaita Turner
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25620 W. 8 Mile Rd
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**MDHHS-Oakland-6303-
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Interested Parties

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M. Holden
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B. Cabanaw
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EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]