



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

[REDACTED]  
[REDACTED]  
MI [REDACTED]

Date Mailed: May 23, 2024  
MOAHR Docket No.: 24-004381  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 telephone hearing was held on May 20, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Medical Assistance (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 is an ongoing recipient of FAP benefits and MA benefits under the Healthy Michigan Plan (HMP). Petitioner's [REDACTED]-year-old daughter [REDACTED] was also receiving MA under the HMP.
2. In connection with a semi-annual/mid-certification, Petitioner's FAP eligibility was reviewed.
3. On or around February 16, 2024, the Department sent Petitioner a Notice of Case Action, advising her that effective February 1, 2024, her FAP case would be closed. (Exhibit A, pp. 6-10)
4. On or around February 16, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), advising her that effective March 1, 2024,

Petitioner and her daughter were no longer eligible for HMP due to excess income. The Notice advised that effective March 1, 2024, Petitioner's daughter would be eligible for MA subject to a monthly deductible of \$2,619. (Exhibit A, pp. 11-16)

5. On or around February 22, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and MA benefits.
6. On or around April 24, 2024, the Department sent Petitioner a Notice of Case Action advising that effective February 1, 2024, her FAP case was reinstated. Petitioner was issued FAP benefits from February 1, 2024, ongoing.
7. On or around April 24, 2024, the Department reprocessed Petitioner's daughter's MA eligibility and determined that effective March 1, 2024, she was eligible for MA with a reduced deductible of \$1,482.
8. The Department reprocessed Petitioner's MA eligibility and determined that she was eligible for full coverage MA under the HMP effective March 1, 2024, ongoing.

### **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) [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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, it was established that after receiving Petitioner's hearing request, the Department corrected the actions that Petitioner requested a hearing to dispute regarding the FAP and MA benefits for herself. The Department reinstated Petitioner's FAP case and issued FAP benefits to Petitioner from February 1, 2024, ongoing. Petitioner confirmed that the issue regarding her FAP benefits has been resolved.

Therefore, no issue remains regarding Petitioner's FAP benefits. The hearing request regarding FAP is therefore DISMISSED. See BAM 600.

Additionally, the Department presented evidence including a Health Care Coverage Determination Notice advising Petitioner that her MA case has been reinstated and she was approved for full coverage MA benefits under the HMP for March 1, 2024, ongoing. The Department explained that Petitioner's MA eligibility was reviewed upon receiving updated income information in connection with the FAP review. The Department representative testified that because Petitioner's household size includes herself and one minor child, the income limit for a two-person household size is higher, and thus, Petitioner was determined eligible for MA under the HMP. The Department reviewed the eligibility summary during the hearing and confirmed that Petitioner's MA benefits were active with no lapse in coverage. Although Petitioner's MA coverage under the HMP was reinstated effective March 1, 2024, the hearing proceeded regarding MA benefits for Petitioner's daughter, as Petitioner disputed the change in coverage from the HMP to the Group 2 Under 21 category.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (July 2021), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

In this case, because Petitioner's daughter was not age 65 or older, blind or disabled, under age 19, the parent or caretaker of a minor child, or pregnant or recently pregnant, the Department properly determined that Petitioner was potentially eligible for MA coverage under full coverage HMP. The Department testified that although Petitioner's daughter was previously receiving MA under the HMP, effective March 1, 2024, she was no longer eligible, as her income exceeded the income limit.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

The Department representative testified that Petitioner's daughter was not eligible for HMP because her income exceeded the applicable income limit for her group size. An individual is eligible for HMP if the household's MAGI-income does not exceed 133% of

the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status and dependents. Petitioner testified that her daughter files her own tax return and does not claim any dependents. Petitioner also confirmed that she does not claim her daughter as a dependent. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). Therefore, for HMP purposes, Petitioner's daughter has a household size of one. Because the month being tested is prior to April 2024, the FPL for the 2023 year is to be applied. The FPL for a group size of one in 2023 is \$14,580. 133% of the annual FPL in 2023, for a household with one member is \$19,391.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's daughter's annual income cannot exceed \$19,391.40, and thus, the monthly income cannot exceed \$1,615.95, as a current beneficiary. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$20,120, or \$1,676.67, monthly.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MA beneficiaries, the Department will consider *currently* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf)

Although the Department representative did not identify what it concluded Petitioner's daughter's monthly MAGI was, the Department testified that it considered paystubs submitted during the FAP review. Through the testimony of both the Department representative and Petitioner, it was established that Petitioner's daughter was employed at [REDACTED] and paid biweekly. While her weekly hours fluctuated based on her school schedule, Petitioner confirmed that the pay amounts reflected on the paystubs were accurate. Specifically, Petitioner's daughter was paid \$904.84 on March 4, 2024, \$1,122.08 on March 18, 2024, \$840.32 on April 1, 2024, \$875.52 on April 15, 2024, and \$654.88 on April 29, 2024. Upon review of the pay amounts and applicable

pay dates, and based on the above referenced policy, Petitioner's daughter's MAGI for the month of March 2024 is greater than the \$1,676.67 income limit for her household size of one. Because the household income is greater than the income limit identified above, the Department properly concluded that Petitioner's daughter was not eligible for MA benefits under the HMP.

Although Petitioner's daughter was not eligible for HMP coverage, because Petitioner's daughter is under age 21, she is potentially eligible for MA under the Group 2 Under 21 (G2U) category. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (January 2021), p. 1. For Group 2 categories, there is a monthly deductible equal to the amount the household's monthly net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is based on the fiscal group size for Group 2 MA categories and the county of residence. BEM 132 (April 2018), p.1-2; BEM 544 (January 2020), p. 1; RFT 200 (April 2017); RFT 240 (December 2013), p. 1.

The Department produced a G2-FIP Related (MA) Adult Net Income results budget which was reviewed to determine if the Department properly calculated Petitioner's daughter's deductible of \$1,482 effective March 1, 2024. (Exhibit C). Because Petitioner's daughter is [REDACTED] years old and not a minor child, it appears, upon review of the budget, that the Department determined she had a fiscal group of one. The PIL for a one-person fiscal group residing in [REDACTED] County is \$408. Thus, if Petitioner's daughter's income, calculated in accordance with BEM 536 (July 2019), pp. 1-7, exceeds \$408, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that the monthly income exceeds \$408.

The Department testified that in calculating income for MA purposes, it considered Petitioner's daughter's biweekly wages which were identified above. The Department did not identify the exact pay amounts considered and thus, the starting MA income for G2U purposes was unknown. Additionally, it was unknown whether the Department properly applied the standard work expense of \$90 from Petitioner's daughter's earned income. Additionally, although there was no evidence presented that Petitioner's daughter received FIP benefits or LIF in the four calendar months prior to the month being tested, thus, would not be eligible for the \$30 plus 1/3 disregard, there was no evidence presented that Petitioner's daughter's group was not entitled to any other deductions to income. BEM 536, pp. 1-7.

The budget shows that Petitioner's daughter's prorated income is [REDACTED]651. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536, pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4. For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4.

In this case, Petitioner's daughter is unmarried and has no unmarried children under age 18. Therefore, the prorated divisor is 2.9. However, the Department did not explain or otherwise identify what prorated divisor it applied to Petitioner's daughter's case and how the [REDACTED] in prorated income was determined. Furthermore, while the budget reflects total net income of [REDACTED] the Department failed to explain how this income amount was determined. As a result, the Department has failed to establish that it properly calculated the \$1,482 MA deductible for Petitioner's daughter effective March 1, 2024. While it is likely that Petitioner's daughter will be subject to a monthly deductible due to her income being in excess of the [REDACTED] PIL, the Department failed to sufficiently explain that it followed Department policy in its determination that the deductible amount was \$1,482.

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 although the Department properly concluded that Petitioner's daughter was ineligible for full coverage MA under the HMP, the Department did not act in accordance with Department policy when it calculated her deductible of \$1,482 effective March 1, 2024.


### **DECISION AND ORDER**

Accordingly, the request for hearing regarding FAP is **DISMISSED** and the Department's MA decision is **REVERSED**.

THE DEPARTMENT 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. Redetermine Petitioner's daughter [REDACTED] MA eligibility under the most beneficial category for March 1, 2024, ongoing and recalculate her MA deductible for March 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner's daughter under the most beneficial category, that she was entitled to receive but did not from March 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
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**Zainab A. Baydoun**  
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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**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4

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EQAD

MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]