



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]  
[REDACTED] MI [REDACTED]

Date Mailed: June 7, 2024  
MOAHR Docket No.: 24-004431  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 May 29, 2024, via teleconference. Petitioner appeared was represented by Authorized Hearing Representative (AHR), [REDACTED] Jennifer Richard, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-40.

### **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)?

### **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 FAP and MA benefits.
2. On March 11, 2024, MDHHS sent Petitioner an SSI-Terminated MA Coverage notice indicating that MDHHS received information that Petitioner was no longer receiving Supplemental Security Income (SSI), and therefore, MDHHS was required to redetermine Petitioner's eligibility for MA (Exhibit A, p. 39).
3. On [REDACTED] 2024, Petitioner submitted a MA application, reporting employment income (Exhibit A, p. 14).

4. On April 3, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was eligible for Freedom to Work (FTW) MA with an estimated \$61.06 premium amount, effective May 1, 2024, ongoing (Exhibit A, p. 35).
5. On April 3, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefit rate decreased to \$23.00 per month, beginning May 1, 2024 (Exhibit A, p. 37).
6. On April 15, 2024, Petitioner submitted a request for hearing regarding his MA and FAP benefits (Exhibit A, pp. 4-6).

### **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 hearing request to dispute his FAP benefit rate. However, at the hearing, AHR testified that she did not dispute the FAP benefit rate and no longer wished to proceed with the hearing on that matter. AHR requested to withdraw the request for hearing pertaining to FAP. MDHHS had no objection. The request for hearing was withdrawn on the record.

Subject to the withdrawal of the request for hearing, the matter regarding FAP is, hereby, **DISMISSED**.

#### **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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS determined that Petitioner was eligible for Freedom to Work (FTW) MA, with a monthly premium of \$61.06. Petitioner disputed the calculation of the monthly premium.

FTW is a Group 1 SSI-related MA program available to a clients aged 16 through 64 with disabilities and earned income. BEM 174 (January 2020), p. 1. Initial income eligibility exists when the client's countable income does not exceed 250% of the Federal Poverty Level (FPL). *Id.*, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250% of the FPL. *Id.* MDHHS' determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. *Id.* There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138% FPL. BEM 174, p. 3. A premium of 2.5% of income is charged for an individual with MAGI income between 138% FPL and \$75,000 annually. *Id.* Nonpayment of the premium will prompt MDHHS to terminate benefits under this category. *Id.*

Medicare Savings Program (MSP) and FTW have different group composition, income and asset limits. BEM 174, p. 4. A separate determination must be done when there is a spouse. *Id.* A client eligible for MA under FTW is not eligible for Additional Low-Income Medicare Beneficiaries (ALMB) MSP. *See generally*, BEM 165 (October 2022), p. 1.

Petitioner has unearned Retirement, Survivors, and Disability Insurance (RSDI) income, as well as earned income. MDHHS must budget the gross amount of RSDI income. BEM 503 (April 2024), pp. 29-30. Here, MDHHS determined that Petitioner receives \$[REDACTED] per month in RSDI income. Petitioner did not dispute that amount. Recipients of SSI-related MA are entitled to a \$20 disregard in the calculation of countable earned income. BEM 541 (January 2021), p. 3. Thus, MDHHS properly budgeted \$[REDACTED] for Petitioner's countable unearned income (Exhibit A, p. 32).

For Petitioner's earned income, MDHHS testified that it budgeted \$936.00 per month based on Petitioner's employment at Employer. AHR disputed this amount and testified that the paystubs it used were unusually high and included an irregular bonus payment. On the FTW budget, MDHHS budgeted \$[REDACTED] per month (Exhibit A, p. 33).

When budgeting monthly income, MDHHS uses amounts already received/available in the processing month. BEM 530 (April 2020), p. 3. In addition, MDHHS estimates amounts likely to be received/available during the remainder of the month by prospecting income. *Id.* For future months, with the exception of self-employment income, MDHHS uses amounts that will or are likely to be received in the future month. *Id.* When the amount of income from a source change from month to month, MDHHS estimates the amount that will be received/available in the future month. *Id.* Prospecting income means arriving at a best estimate of the person's income. *Id.* MDHHS prospects income when estimating income to be received in a processing or future month. *Id.* A best estimate may not be the exact amount of income received. *Id.* For fluctuating earned income, MDHHS uses the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings. *Id.*

Based on the Work Number Report, Petitioner's hours at Employer fluctuate substantially, varying from no hours worked to approximately ■ hours worked during a two-week pay period (Exhibit A, p. 26). Given the fluctuation, MDHHS should have prospected Petitioner's income for future months, based on the number of hours that Petitioner expected to work in the future. No evidence was presented that MDHHS attempted to verify this information with Petitioner or AHR, pursuant to policies in BAM 130 (May 2024).

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for MA.

### **DECISION AND ORDER**

Subject to the withdrawal of the request for hearing, the matter regarding FAP is, hereby, **DISMISSED**.

MDHHS' determination regarding MA is **REVERSED**.

MDHHS 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 eligibility for MA, from May 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial MA category that he is eligible to receive, from May 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



LJ/pt

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**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:**

**DHHS**  
Kimberly Kornoelje  
Kent County DHHS  
121 Martin Luther King Jr St SE  
Grand Rapids, MI 49507  
**MDHHS-Kent-Hearings@michigan.gov**

**Interested Parties**

BSC3  
M. Schaefer  
EQAD  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Authorized Hearing Rep.**

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**Petitioner**

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