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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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Date Mailed: June 12, 2024
MOAHR Docket No.: 24-005099
Agency No.: ██████████
Petitioner: ██████████

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 June 6, 2024, Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Alice Gilmer, manager, and Tameka Jones, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medicaid (MA) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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 February 2024, Petitioner was an ongoing recipient of MA and FAP benefits.
2. As of ██████████ 2024, Petitioner received an unspecified amount of employment income.

3. On April 18, 2024, MDHHS terminated Petitioner's MA eligibility beginning May 2024 due to Petitioner's alleged failure to verify income.
4. On April 18, 2024, MDHHS determined Petitioner was eligible for FAP benefits of \$23 beginning March 2024, based on an unspecified calculation of wages.
5. On May 2, 2024, Petitioner requested a hearing to dispute MA and FAP eligibility.
6. On May 6, 2024, MDHHS determined Petitioner to be eligible for the limited-coverage MA category of Plan First beginning May 2024, based on an unspecified amount and calculation of wages.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of MA benefits. Exhibit A, p. 3. MDHHS testimony acknowledged it improperly terminated Petitioner's MA eligibility.¹ MDHHS contended it corrected its error and mailed Petitioner a Health Care Coverage Determination Notice dated May 6, 2024, stating Petitioner was eligible beginning May 2024 only for the limited-coverage MA category of Plan First. Exhibit A, p. 11.

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 (HMP) 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.*

¹ A Health Care Coverage Determination Notice dated April 18, 2024, stated that MDHHS denied Petitioner's MA eligibility due to a failure to verify income. Exhibit A, pp. 7-8.

The evidence suggested that Petitioner was aged 21-65 years, not pregnant, not a caretaker to minor children, and not a Medicare recipient. Given the circumstances, Petitioner is potentially eligible for full-coverage Medicaid only through the MAGI-related category of HMP.

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.² 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.³

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.⁴ Common 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.⁵

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. Presumably, Petitioner is a tax filer with no dependents. Thus, Petitioner's group size is one.

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 2024 federal poverty level for a 1-person group in Michigan is \$15,060.⁶ Multiplying the FPL by 1.38 results in an income limit of \$20,782.80 (\$1,731.90).

MDHHS determined that Petitioner was eligible for Plan First. Plan First requires that income does not exceed 195% of the FPL. By denying HMP and approving Plan First, MDHHS presumably MDHHS calculated Petitioner's income to be 138%-195% of the FPL. Notably, MDHHS's hearing packet did not include documentation of Petitioner's

² 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.

³ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁴ <https://www.investopedia.com/terms/a/agi.asp>

⁵ *Id.*

⁶ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

wages or a budget explaining how Petitioner's wages were considered. Petitioner contended that MDHHS factored an improperly high income in determining eligibility, but also provided no corroboration for his contention.⁷

MDHHS failed to establish it properly determined Petitioner's MA eligibility. Thus, Petitioner is entitled to a reprocessing of FAP benefits. Because the evidence did not establish any specifics about Petitioner's income, the reprocessing order shall not be tied to any evidence.

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 also requested a hearing to dispute a reduction in FAP eligibility. Exhibit A, p. 3. A Notice of Case Action dated April 18, 2024, stated that Petitioner was eligible for \$23 in FAP benefits beginning March 2024. Exhibit A, pp. 9-10.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income is based on group size, countable monthly income, and relevant monthly expenses. MDHHS presented a budget summary listing relevant income and expenses. Exhibit A, p. 10. During the hearing, all relevant budget factors were discussed with Petitioner. Only employment income and shelter expenses were disputed.

It was not disputed that Petitioner received ongoing employment income. MDHHS factored \$2,408 in gross monthly wages for Petitioner; Petitioner testified he received less. As discussed in the MA analysis, MDHHS provided no explanation for how it calculated Petitioner's wages. Given the lack of evidence, Petitioner is entitled to a reprocessing of FAP benefits. However, the reprocessing shall not be specified as Petitioner also provided no corroborative evidence that MDHHS erred in determining wages.

Petitioner also disputed shelter expenses. MDHHS counted no housing expenses for Petitioner and issued a standard utility credit only for telephone. Petitioner claimed he

⁷ Neither side presented evidence of how income was calculated. MDHHS testified that Bridges, its database, would normally be accessible to obtain documentation during the hearing; however, MDHHS stated that Bridges happened to be down during Petitioner's hearing. MDHHS suggested that it could submit documentation after the hearing, but this suggestion was rejected. Allowing a party to submit documents after the hearing prohibits the other party from adequately responding to the evidence. Furthermore, such an allowance is more apt when the party is not at fault for the missing evidence. Though MDHHS could not access documents from its database during the hearing, it could have submitted Petitioner's income documents as part of its hearing packet. Similarly, Petitioner could have submitted documents before the hearing knowing that income was a disputed issue. MDHHS suggested an adjournment or continuance would be proper, but the failure by a party to submit available documentation before the hearing is a proper basis for adjournment or continuance.

had housing expenses and a responsibility for heating and [REDACTED]. However, Petitioner's testimony acknowledged reporting no additional expenses to MDHHS before the hearing.⁸

MDHHS cannot be faulted for not budgeting housing and utility expenses which were not reported by Petitioner. However, two reasons now allow for a updated FAP eligibility. First, Petitioner reported housing expenses and utilities during the hearing. Accordingly, MDHHS should treat the reported change by including the reported housing costs and utilities in Petitioner's ongoing eligibility per policy or request verification if it deems the reporting as questionable (see BEM 554). Secondly, because MDHHS failed to establish it properly budgeted Petitioner's FAP eligibility beginning March 2024, MDHHS could update Petitioner's housing and utilities as part of the reprocessing. However, because Petitioner's reporting occurred after the hearing request, there is no administrative jurisdiction to order MDHHS to include additional housing costs or utility credits in the rebudgeting, though MDHHS is not prohibited from doing so.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's MA and FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's MA eligibility beginning May 2024 subject to the finding that MDHHS failed to establish it properly calculated Petitioner's income;
- (2) Reprocess Petitioner's FAP eligibility beginning March 2024 subject to the finding that MDHHS failed to establish it properly calculated Petitioner's income; and
- (3) Issue benefit supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

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

⁸ Petitioner testified he has had various medical obstacles which were preoccupying and caused him to under-report housing and utility expenses in writing.

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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

Wayne 15 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail:

Petitioner

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