



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: June 20, 2024
MOAHR Docket No.: 24-005342
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 June 12, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Angela Ware, 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. As of March 2024, Petitioner was an ongoing FAP recipient based on \$755 in monthly self-employment income.
2. As of March 2024, Petitioner received \$1,113 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).
3. On March 4, 2024, Petitioner submitted redetermination documents reporting ongoing receipt of self-employment income and RSDI.

4. As of March 2024, Petitioner was 64 years old, not pregnant, not disabled, not a caretaker to a minor child, and not a Medicare recipient.
5. As of April 2024, Petitioner's benefit group had no day care or child support expenses. MDHHS credited Petitioner with \$53 in monthly medical expenses.
6. As of April 2024, Petitioner had \$800 in monthly housing costs and a responsibility to pay heating and/or cooling expenses.
7. On April 3, 2024, MDHHS determined Petitioner was ineligible for MA benefits beginning May 2024.
8. On April 3, 2024, MDHHS determined Petitioner was eligible to receive \$125 in FAP benefits beginning May 2024.
9. On April 30, 2024, Petitioner requested a hearing to dispute FAP and MA eligibility beginning May 2024. Petitioner also reported to MDHHS an end to self-employment income.

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

Petitioner requested a hearing, in part, to dispute a determination FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated April 3, 2024, stated that Petitioner was eligible for \$125 in monthly FAP benefits beginning May 2024. Exhibit A, pp. 7-11. Petitioner contended that she was eligible to receive more FAP benefits.

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. MDHHS included a budget listing all relevant budget factors and calculations. Exhibit A, pp. 31-34. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including only Petitioner. Petitioner's AHR did not dispute the group size of one person.¹

¹ See BEM 212 for policies on determining group size for FAP benefits.

It was not disputed that Petitioner received \$1,113 in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. For purposes of FAP benefits, Petitioner's total unearned income was \$1,113.

MDHHS factored \$755 in self-employment income when redetermining Petitioner's FAP eligibility. MDHHS explained that it counted the same ongoing self-employment income because Petitioner reported having no income changes on redetermination documents submitted on March 4, 2024. Exhibit A, pp. 17-18. Petitioner testified that self-employment income has since stopped. However, it was not disputed that Petitioner did not report a stoppage in self-employment income until requesting a hearing on April 30, 2024. MDHHS cannot be faulted for budgeting the most recently reported self-employment income amount of \$755 when Petitioner's FAP eligibility was determined on April 3, 2024.² For purposes of FAP benefits, Petitioner's countable self-employment income is \$755.

For timely reported employment income, MDHHS applies a 20% credit in the FAP budget. Multiplying Petitioner's self-employment income by 80% results in \$604 in monthly countable wages. Adding Petitioner's countable RSDI and wages results in a total countable income of \$1,717.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) 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. *Id.* 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's testimony acknowledged having no dependent care or child support expenses. Petitioner also did not allege having medical expenses; nevertheless, MDHHS credited Petitioner with a monthly medical premium of \$53 resulting in application of the standard medical deduction of \$165. For purposes of this decision, it will be accepted that Petitioner had a monthly medical premium of \$53. Thus, Petitioner is eligible for the SMD of \$165 and Petitioner's non-shelter expenses total \$165.

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-

² Petitioner's reporting on April 30, 2024, should be considered a reported change resulting in MDHHS seeking to verify the stoppage in income. MDHHS stated it did just that by sending Petitioner a Verification Checklist on May 14, 2024 requesting from Petitioner documentation stating when self-employment income stopped. Exhibit A, pp. 19-21. MDHHS further stated it is still awaiting Petitioner's response to the checklist.

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 (\$165) from Petitioner's group's countable income (\$1,717) results in an adjusted gross income of \$1,354.

MDHHS credited Petitioner with monthly housing expenses of \$800; Petitioner did not dispute the amount of expenses. MDHHS 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.³ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,480.

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 \$803.

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 \$551 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁴ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for May 2024 is \$125: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning May 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. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated April 3, 2024, stated that Petitioner was ineligible for MA benefits beginning May 2024. Exhibit A, pp. 14-16. Determining whether MDHHS properly determined Petitioner's eligibility requires an examination of MA categories.

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

³ 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.

⁴ 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.

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.*

The evidence supported that Petitioner was 64 years old, not pregnant, not disabled, not a caretaker to a minor child, and not a Medicare recipient. Under the circumstances, Petitioner is potentially eligible to receive MA benefits under the Group 1 category of HMP. Internal MDHHS documents stated that Petitioner was ineligible for HMP due to not being any of the following: under 21 years, over 65 years, disabled, pregnant, or a caretaker to a minor child. Exhibit A, p. 25.

HMP is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (January 2024) p. 1. It provides coverage for individuals who are the following:

- 19-64 years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- Have income at or below 133 percent Federal Poverty Level (FPL).

Given the requirements of HMP, MDHHS's reason for concluding that Petitioner was ineligible for HMP was improper. During the hearing, MDHHS provided no proper basis for denying HMP benefits to Petitioner. The evidence did not establish that Petitioner was eligible to receive HMP; however, MDHHS failed in its burden to establish that Petitioner was ineligible for HMP. Thus, Petitioner is entitled to a reinstatement of MA benefits.⁵

⁵ This decision does not preclude MDHHS from later redetermining Petitioner's MA eligibility and again terminating MA benefits. If MDHHS does so, Petitioner may again request a hearing to dispute the termination.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$125 in FAP benefits beginning May 2024. Concerning FAP benefits, the actions taken by MDHHS are **AFFIRMED**.

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

- (1) Reinstate Petitioner's MA eligibility beginning May 2024 subject to the finding that MDHHS failed to establish it properly terminated Petitioner's MA benefits; and
- (2) 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 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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