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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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[REDACTED], MI [REDACTED]

Date Mailed: June 26, 2024
MOAHR Docket No.: 24-005469
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 20, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryane McArthur, specialist. Randa Abraham of Linguistica International participated as an Arabic-English translator.

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. On October 9, 2023, Petitioner submitted redetermination documents to MDHHS and reported a household with no persons who were over 60 years, disabled, or a disabled veteran.
2. In October 2023, Petitioner received gross biweekly wages of \$ [REDACTED]

3. As of October 2023, Petitioner received monthly child support of \$695.
4. As of October 2023, Petitioner had no child support or dependent care expenses.
5. As of October 2023, Petitioner had housing expenses of \$1,474.86 and a responsibility for heating/cooling.
6. On November 2, 2023, MDHHS determined that Petitioner was eligible to receive \$50 in monthly FAP benefits beginning December 2023.
7. As of an unspecified date, MDHHS determined Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,692.
8. On May 7, 2024, Petitioner requested a hearing to dispute the determinations of FAP and MA eligibility.

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 to dispute a redetermination FAP benefits.¹ Exhibit A, pp. 3-5. A Notice of Case Action dated November 2, 2023, stated that Petitioner was eligible to receive \$50 in FAP benefits beginning December 2023. Exhibit A, pp. 9-10.

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 (February 2024) p. 6. For FAP benefits, the current amount of benefits can be disputed at any time. *Id.*, p. 7.

Petitioner requested a hearing on May 7, 2024 to dispute a reduction in FAP benefits to \$50; 187 days after MDHHS sent written notice of the reduction. Thus, Petitioner's hearing request was untimely other than to dispute ongoing FAP eligibility. The analysis will proceed to determine whether MDHHS correctly determined Petitioner's FAP eligibility beginning May 2024: the month of Petitioner's hearing request.

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. The approval notice sent to Petitioner included a summary

¹ Petitioner seemed to dispute a redetermination of benefits after she submitted redetermination documents to MDHHS on October 9, 2023. Exhibit A, pp. 28-32.

including all budget factors. Exhibit A, p. 10. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including Petitioner and her two biological children. Petitioner did not dispute the group size of three persons.²

It was not disputed that Petitioner received \$695 in monthly child support. Exhibit A, p. 27. For court-ordered child support, MDHHS is to count the gross amount as unearned income. BEM 503 (April 2024) p. 9. For FAP benefits, Petitioner's countable unearned income is \$695.

Wage documents from Petitioner's employer stated that Petitioner received \$1,471.50 in gross biweekly income during October 2023. Exhibit A, pp. 19-24. For FAP benefits, MDHHS generally counts gross wages.³ BEM 501 (January 2024) p. 7. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2023) p. 8. Multiplying Petitioner's average biweekly gross wages of \$1,471.50 by 2.15 results in monthly gross wages of \$ [REDACTED] (dropping cents).

MDHHS gives 20% credits for timely reported employment income. Applying the credit to Petitioner's wages results in countable wages of \$2,530 (dropping cents). Adding Petitioner's unearned income of \$695 results in a total countable income of \$3,225.

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.*

No persons in Petitioner's group were senior, disabled, or disabled veterans; thus, medical expenses may not be claimed. Petitioner did not allege having any dependent care or child support expenses. Petitioner's group's non-shelter expenses are \$0.

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

³ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (January 2024) p. 7. The evidence did not suggest any applicable exceptions for the present case.

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 (\$0) from Petitioner's group's countable income (\$3,225) results in an adjusted gross income of \$ [REDACTED]

MDHHS credited Petitioner with monthly housing expenses of \$1,474.86. Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2022) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁴ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$2,155 (rounding up to nearest dollar)

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 \$642.

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 \$2,385 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁵ 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 \$50: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning May 2024.⁶

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 also requested a hearing to dispute a determination of MA benefits Exhibit A, pp. 3-5. There was no evidence that a written notice of MA benefits was sent to Petitioner in the 90 days before a hearing was requested.⁷ Nevertheless, for purposes of this decision, it will be accepted that Petitioner's ongoing MA eligibility is a hearable

⁴ 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.

⁵ 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.

⁶ Petitioner emphasized that she is a single mother and has a great need for additional FAP benefits. Petitioner's testimony was credible but does not factor into the determination of FAP benefits.

⁷ A Health Care Coverage Determination Notice dated January 17, 2024, was sent to Petitioner. Exhibit A, pp. 11-13. The notice was issued more than 90 days before Petitioner's hearing request; thus, its determination is not hearable (also, its content is unknown as it was written in Arabic).

issue. It was not disputed that Petitioner was eligible for Medicaid subject to a \$1,692 monthly deductible.

The MA program includes several sub-programs or categories. BEM 105 (October 2023) p. 1. 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.* MA 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.*

As of the disputed benefit month, Petitioner was aged 19-65 years, not pregnant, not disabled, and a caretaker to minor children. Under the circumstances, Petitioner's only potential MA category with full MA coverage and the highest income limit is the MAGI-related category of HMP.⁸ Presumably, Petitioner was ineligible for HMP due to excess income.

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.⁹ 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 elected to determine HMP eligibility based on current monthly income.¹⁰

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.¹¹ 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

⁸ Petitioner was eligible for Transitional Medicaid (TMA) in March 2023. TMA is only applicable when previous MA eligibility was under Low Income Family. BEM 111 (April 2018) p. 1. Adults with a dependent child and income under 54 percent of the Federal Poverty Level (FPL) will be considered LIF eligible. BEM 110 (April 2018) p. 1. HMP eligibility is based on 138% of the FPL.

⁹ 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.

¹⁰ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

¹¹ <https://www.investopedia.com/terms/a/agi.asp>

(e.g., 401k) payments, and student loan interest.¹² There was no evidence of applicable expenses.

As of the disputed benefit month, Petitioner was a single mother to two children. Presumably, Petitioner is a tax filer with two dependents. Under the circumstances, Petitioner's HMP group size is three persons.¹³

As discussed in the FAP analysis, Petitioner's biweekly income was \$1,471.50. Multiplying the income by 2 results in countable income of \$2,943. Adding Petitioner's monthly child support income of \$695 results in a total income of \$3,638.

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014) p. 1. MDHHS applies a 5% income disregard when the disregard is the difference between a client's eligibility and ineligibility. BEM 500 (July 2017) p. 5. The disregard functionally renders the HMP income limit to be 138% of the FPL. The 2024 federal poverty level for a 3-person group residing in Michigan is \$25,820.¹⁴ For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$35,631.60 (\$2,969.30 per month).

Petitioner's gross monthly income exceeds the income limit for HMP. Thus, MDHHS properly determined Petitioner's HMP eligibility. Because Petitioner is not eligible for any other Group 1 MA categories with a higher income limit, MDHHS properly determined Petitioner to be eligible for any Group 1 MA categories.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2023) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For caretakers of children, G2C is the applicable Group 2 MA category (see BEM 135).

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022) p. 10. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

BEM 536 outlines a 16-step procedure for determining a client's income for purposes of G2C eligibility:

Step 1 Determine countable employment income using BEM 500 and BEM 530.

¹² *Id.*

¹³ See BEM 211 for MDHHS policy to determine group size.

¹⁴ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

- Step 2 Deduct \$90 from each member's employment income.
- Step 3 Subtract \$30 + 1/3 of a group member's employment income if the person received FIP or LIF benefits in any one of the four previous months.
- Step 4 Subtract \$200 from any remaining employment income if member has dependent care expenses.
- Step 5 Determine countable child support income using BEM 500 and BEM 530.
- Step 6 Subtract \$50 for countable child support income.
- Step 7 Determine countable unearned income using BEM 500 and BEM 530.
- Step 8 Add countable earned and unearned income.
- Step 9 Subtract child support paid by a group member (not to exceed the monthly obligation).
- Step 10 Subtract \$83 if client has court-appointed guardian paid by a group member. The result is the group's total net income.
- Step 11 Determine the number of dependents. A spouse and children under 18 are dependents.
- Step 12 Add 2.9 to the number of dependents to determine the prorate divisor.
- Step 13 Divide the prorated divisor into each group member's income to determine each member's prorated share of income.
- Steps 14-16 Applicable for non-parent caretakers.

Starting with Petitioner's wages of \$ [REDACTED] Petitioner is entitled to a \$90 deduction resulting in countable income of \$ [REDACTED]. Petitioner's child support income was \$695; adding to the countable wages results in a total income of \$ [REDACTED]. Child support expenses, guardianship expenses, and dependent care expenses are not applicable. Petitioner had two tax dependents; adding 2.9 to the number of dependents results in a prorate divisor of 4.9. Dividing the prorate divisor of 4.9 into Petitioner's income creates a prorated income of \$724. MDHHS determined a prorated income of \$713; for purposes of this decision, \$713 will be accepted as the correct prorated income.

The adult's net income for purposes of G2C is calculated by adding the following and subtracting insurance premiums, remedial services, and ongoing medical expenses:

- 2.9 x adult's prorated income (if adult has dependents)
- 3.9 x spouse's prorated income
- Prorated share of adult's income

Multiplying Petitioner's prorated income of \$713 by 2.9 results in total net income of \$2,067 (dropping cents). No expenses were applicable.

A client's G2C deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013), p. 1.

¹⁵ There was no evidence of LIF or FIP eligibility in the three months before application. Thus, a further employment deduction is not warranted.

Subtracting the PIL from a net income of \$2,067 results in a deductible of \$1,692: MDHHS calculated the same deductible. The evidence established that MDHHS properly calculated Petitioner's MA eligibility.

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 \$50 in FAP as of May 2024. The evidence also established that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$1,692 monthly deductible. The actions taken by 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

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

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