



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: July 2, 2024
MOAHR Docket No.: 24-005907
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 June 26, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner’s eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner’s eligibility for Medicaid (MA) coverage?

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 ██████████ 2024, Petitioner applied for FAP benefits.
2. On April 5, 2024, the Department sent Petitioner a verification checklist (VCL) with a due date of April 15, 2024 requesting verification of self-employment income. Exhibit A, pp. 6-8.
3. Petitioner submitted her income tax return and DHS-431 Self-Employment Income and Expense Statements for the months of January, February, and March 2024 to the Department. Exhibit A, pp. 11-16. Petitioner included business receipts for the expenses listed on the DHS-431 forms. Exhibit A, pp. 17-43.

4. On April 25, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing Petitioner that her FAP application was denied effective March 28, 2024 ongoing because her gross income exceeded FAP program limits. Exhibit A, pp. 44-47.
5. On May 22, 2024, the Department received Petitioner's request for hearing disputing the Department's denial of her FAP application and MA coverage. Exhibit A, pp. 3-5.

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).

FAP

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.

In this case, Petitioner disputes the Department's calculation of self-employment income and expenses used to determine FAP eligibility. Petitioner submitted receipts to claim and verify self-employment expenses, but the Department limited expenses to 25% of the total self-employment income.

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502 (June 2024), p.3. For FAP benefits, the primary verification source for self-employment income is an income tax return, if that return is representative of future income. BEM 502, p. 7. Secondary verification is the DHS-431 with receipts, followed by the DHS-431 without receipts. At the time of Petitioner's denial, allowable self-employment expenses were the higher of 25% of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502, p. 3. Verification for self-employment expenses is the DHS-431 with receipts. *Id.*, p. 8. If expenses are not verified, then allowable expenses are limited to 25% of the total income.

Here, the Department testified that it did not use Petitioner's receipts to determine allowable expenses because they contained redactions. Instead, the Department explained it calculated Spouse's self-employment income from the DHS-431 forms for

January through March 2024 and calculated Petitioner's self-employment income from her income tax return. Then, the Department limited expenses to 25% of the total income. Based on the Department's calculations, Petitioner's monthly gross income was [REDACTED] (Exhibit A, p. 45) and exceeded the limits for FAP benefits for a group size of ten, which is capped at \$10,144.00. RFT 250 (October 2023) p. 1, Column D.

When self-employment expenses are not verified with receipts, then allowable expenses are limited to 25% of the total income. However, in this case, Petitioner included receipts to verify the expenses listed on the DHS-431 forms. While three receipts contained redactions, the redacted information was personal identifying information of Petitioner's customers (name, address, driver's license number). The redactions did not obscure transaction dates or financial information. The Department should have used the receipts to determine Petitioner's actual allowable expenses rather than limiting expenses to 25% of the total self-employment income.

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

MA

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, Petitioner disputed her and Spouse's MA coverage and her newborn baby's (Baby) lack of coverage.

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, which is limited to individuals aged 18 to 64, and (iv) to individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), 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, p. 2; 42 CFR 435.404.

Here, the Department testified that a Health Care Coverage Determination Notice (HCCDN) was sent to Petitioner on April 25, 2024 regarding the MA coverage for [REDACTED] (SS). Petitioner, however, did not dispute coverage for SS and based on her testimony, SS is not a current household member. Petitioner explained she disputed

the MA coverage for herself and Spouse. Petitioner testified she had received a letter from the Department in April 2024 that referenced a “cost sharing limit.” Petitioner did not submit this letter prior to the hearing. The Department testified both Petitioner and Spouse have had Transitional Medical Assistance (TMA) coverage continuously since December 2023 and its records did not show any change to that coverage or any HCCDNs regarding Petitioner’s and Spouse’s coverage. TMA is an automatic full-coverage MA category. TMA eligibility is only considered after Parent Caretaker Relative (PCR)/Low Income Family (LIF) MA eligibility ends because of income from the employment of the caretaker relative. BEM 111(April 2018), p.1. Petitioner explained she did not dispute the type of MA coverage but was concerned about the “cost sharing limit” letter and the possibility she would have to pay for medical expenses. Because TMA policy does not indicate any cost-sharing responsibilities and Petitioner did not present any documentation supporting her concerns, it is found that Petitioner had failed to show any negative action by the Department concerning her and her husband’s MA coverage.

Petitioner next disputed the lack of MA coverage for Baby. Petitioner testified she had Baby on [REDACTED] 2024 and that Baby did not have MA coverage. Petitioner reported the birth to the Department on June 25, 2024. A newborn is automatically eligible for MA the month of birth if, for her date of birth, her mother receives Medicaid coverage, regardless of when that coverage is authorized. BEM 145 (April 2020) p. 1. The Department authorizes MA as soon as the minimum information needed to activate the newborn is received. *Id.* The Department explained that it had just received the information regarding Baby’s birth two days prior to the hearing and was processing the information. If, after the Department activates coverage, Petitioner is not satisfied with Baby’s coverage, Petitioner may request a hearing.

Based on the testimony, it was not established that the Department had taken negative action regarding Petitioner’s, Spouse’s or Baby’s MA coverage. A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited to the following: denial of an application or supplemental payment; reduction in benefits or services; suspension or termination of benefits or services; restrictions under which benefits or services are provided; delays in action beyond the standards of promptness; a denial of expedited service or the current level of benefits (FAP and CDC only). BAM 600 (June 2024), p. 5.

Because the Department has not taken any action to deny, reduce, suspend, terminate, or restrict MA coverage, there is no hearable issue for the Administrative Law Judge to decide. Petitioner’s hearing request regarding MA is, therefore, **DISMISSED** for lack of jurisdiction.

DECISION AND ORDER

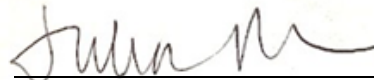
Petitioner's hearing request regarding MA is **DISMISSED**.

The Department's decision regarding FAP 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. Reregister and reprocess Petitioner's [REDACTED] 2024 FAP application, requesting additional verifications if necessary;
2. If Petitioner is eligible for FAP benefits, supplement Petitioner for FAP benefits she was eligible to receive from March 28, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

JN/cc



Julia Norton
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 :

Interested Parties

MDHHS-Wayne-19-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

██████████
██████████
██████████ MI ██████████