



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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Date Mailed: July 23, 2024  
MOAHR Docket No.: 24-006179  
Agency No.: ██████████  
Petitioner: ██████████

**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 July 16, 2024, via teleconference. Petitioner appeared and represented himself. Sarah Stellema, Assistance Payments Supervisor, and Courtney Sweet, Eligibility Specialist, 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. 1-46.

**ISSUES**

1. Did Petitioner present a triable issue regarding Family Independence Program (FIP) and State Disability Assistance (SDA) benefits?
2. Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) benefits?
3. Did MDHHS properly deny Petitioner's application 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. On ██████████ 2024, Petitioner applied for FAP and MA, reporting self-employment income (Exhibit A, p. 14).

2. On May 15, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that he was denied FAP benefits, effective April 24, 2024 ongoing, due to excess income (Exhibit A, pp. 6-7).
3. On May 15, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that he was not eligible for MA, effective April 1, 2024 ongoing (Exhibit A, p. 10).
4. On May 24, 2024, Petitioner requested a hearing regarding FIP, SDA, FAP and MA (Exhibit A, pp. 4-5).

### **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).

#### **Family Independence Program (FIP) and State Disability Assistance (SDA)**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

State actions which entitle a client to a hearing include a denial of an application, a reduction in the amount of program benefits, a suspension or termination of program benefits, restrictions under which benefits are provided, and a delay of any action beyond the standard of promptness. BAM 600 (February 2024), p. 5.

On May 24, 2024, Petitioner requested a hearing regarding FAP, MA, SDA and FIP (Exhibit A, pp. 4-5). However, no evidence was presented that Petitioner applied for SDA or FIP, or that he had received a negative active from MDHHS regarding those

programs. Because there was no denial, reduction, suspension, or termination of FIP or SDA benefits, no triable issue was presented, and Petitioner was not entitled to a hearing on those matters. 7 CFR 271.7(f); BAM 600, p. 5.

Therefore, Petitioner's request for hearing regarding FIP and SDA is, hereby, **DISMISSED** for lack of jurisdiction.

### **Food Assistance Program (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. 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, MDHHS denied Petitioner's application for FAP due to excess income.

Regarding FAP, MDHHS is required to evaluate the household's countable earned and unearned income. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. Individuals who run their own businesses are self-employed. BEM 502 (October 2019), p. 1. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. *Id.* However, income from S-Corporations and Limited Liability Companies (LLCs) is not considered self-employment income.

Petitioner reported to MDHHS that he had income from owning his own company and that the company was an LLC. Because his company was a registered LLC, any income would be considered employment income and not self-employment income. The record shows that Petitioner reported that he was receiving approximately \$3,300.00 in gross income every month (Exhibit A, p. 35). At the hearing, Petitioner testified that this amount was inaccurate and that his income from the company fluctuated widely. He further stated that there were months in which his expenses exceeded his proceeds. Based on Petitioner's testimony, it appears that there was a misunderstanding regarding what MDHHS meant by gross income. Gross income refers to the amount of earned income that a person receives before taxes, union dues, etc. are deducted or, for self-employment, the amount of earned income remaining after the costs of producing the self-employment income are deducted from the total proceeds. BPG Glossary (February 2024), p. 30. Petitioner testified that he filled out the form incorrectly. The record reflects that MDHHS based Petitioner's income on what he reported, and therefore, it properly budgeted his income based on the information that it had at the time. No evidence was presented that MDHHS had reason to believe that Petitioner's estimate of his income was incorrect. Petitioner was advised that he can reapply for program benefits at any time and provide a more accurate accounting of his earnings.

On May 15, 2024, MDHHS sent Petitioner a Notice of Case Action stating that Petitioner was not eligible for FAP benefits because he exceeded the gross income limit for the program (Exhibit A, pp. 43-44). This was based on Petitioner's monthly gross income of \$██████████. Based on Petitioner's reported income, MDHHS properly determined that he was non-categorically eligible for FAP because his gross monthly income exceeded 200% of the Federal Poverty Level (FPL), or \$2,430.00 for a group size of one. RFT 250 (October 2023), p. 1. Groups with income above 200% of FPL are not categorically eligible, and therefore, MDHHS applies the monthly gross income limit of 130% of FPL at application, which was \$1,580.00. RFT 250, p. 1; BEM 213, p. 1. Because Petitioner's reported monthly gross income exceeded the income limit for the program, MDHHS properly concluded that he was not eligible for FAP benefits.

MDHHS presented a budget to show how it determined that Petitioner was not eligible. 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 acted in accordance with Department policy when it denied Petitioner's application for FAP.

### **Medicaid (MA)**

Medicaid (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.

In this case, MDHHS denied Petitioner's application for MA because he was over the income limit for the program.

MA includes several sub-programs or categories. BEM 105, 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, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

HMP MA provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (June 2020), p. 1. HMP is based on MAGI methodology. *Id.* To be eligible for HMP, an individual's income must be at or below 133% of the Federal Poverty Level (FPL). *Id.* Plan First MA is a MAGI-related limited coverage MA category that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1. 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.*

No evidence was presented that Petitioner was blind, disabled, over age 65, under age 19, pregnant, the parent of minor children, or a Medicare recipient. Thus, Petitioner was only potentially eligible to receive HMP MA or Plan First MA.

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. In order to determine earned income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings.<sup>1</sup> Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size, and can take into account any reasonably predictable increase or decrease in income.<sup>2</sup>

For all MA programs except Children Under 19, MDHHS is required to verify all non-excluded income at application, prior to authorizing benefits. BEM 500, p. 13. Additionally, MDHHS is required to perform a reasonable compatibility calculation for MAGI-related MA in certain circumstances. Attested income will be found not reasonably compatible with income from trusted sources if the difference exceeds 10%. BEM 500, p. 5. If the group's attested income is above the income threshold for the program being tested and the trusted data source validates income above the income threshold, then no reasonable compatibility test is performed, and the applicant is not eligible based on attested income. *Id.*

Petitioner reported that he received monthly gross income of \$[REDACTED]. As described in more detail above, this amount may be incorrect because it was based on a misunderstanding of the definition of gross income. MDHHS determined that Petitioner was over the income limit for HMP and Plan First MA based on an annual income of \$36,000.00.

Effective January 17, 2024, 100% of FPL was \$15,060.00 annually for a one-person household residing in the contiguous 48 states. For Petitioner to be eligible for HMP MA in 2024, his net income would have to be at or below \$20,782.80 per year, which

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<sup>1</sup> See Healthcare.gov, Count Income & Household Size, available at <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (last accessed July 22, 2024).

<sup>2</sup> Michigan Medicaid State Plan, December 18, 2017 Submission, available at <[https://www.michigan.gov/documents/mdhhs/MAGI-Based\\_Income\\_Methodologies\\_SPA\\_17-0100\\_-\\_Submission\\_615009\\_7.pdf](https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf)> (last accessed July 22, 2024).

represents 138% of FPL. Persons with income less than 200% of FPL (applying the 5% disregard), which was \$30,120.00 annually in 2024, can qualify for Plan First MA.

Based on Petitioner's attested income of \$ [REDACTED] per year, MDHHS determined that he was over the income limit for HMP and Plan First MA. Petitioner also provided a Profit and Loss From Business 2023 tax return, which showed a gross annual income of \$ [REDACTED] (Exhibit A, p. 33). Because Petitioner's attested income exceeded the income limit for the program and verification from his tax return also exceeded the income limit, MDHHS properly determined that Petitioner was ineligible for MA based on attested income.

Petitioner testified that his income had decreased and varied widely from month to month. Petitioner was advised that he can reapply for MA at any time and may be eligible if his income is below the income threshold in any given month.

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 acted in accordance with Department policy when it denied Petitioner's application for MA.

#### **DECISION AND ORDER**

Accordingly, MDHHS' decisions regarding FAP and MA are **AFFIRMED**.

Petitioner's request for hearing regarding FIP and SDA is **DISMISSED** for lack of jurisdiction.

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:**

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**Interested Parties**

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M Holden  
B Cabanaw  
B Sanborn  
M Schaefer  
L Karadsheh  
N Denson-Sogbaka  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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