



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: June 21, 2024  
MOAHR Docket No.: 24-004345  
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 17, 2024. Petitioner was present and self-represented. Gehad Helmy Interpreter Number 8483 appeared as an Arabic interpreter for Petitioner. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

**ISSUE**

Did the Department properly deny Petitioner’s Food Assistance Program (FAP) application?

Did the Department properly determine Petitioner’s household’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. Petitioner is ■■■ years old, married and lives with her spouse ■■■■■■■■■■ and son ■■■■■■■■■■ in ■■■■■■■■■■ Michigan.
2. ■■■ is ■■■ years old, and ■■■ is ■■■ years old.
3. Petitioner and ■■■ filed taxes jointly and claim ■■■ as a dependent.
4. Petitioner and ■■■ were ongoing recipients of MA Healthy Michigan Plan (HMP) coverage which expired on January 31, 2024.

5. ■ was an ongoing recipient of MA Healthy Kids Expansion (HKE) coverage. ■ turned ■ years old on January 31, 2024.
6. In December of 2023, Petitioner's household's MA coverage was reviewed as part of a redetermination.
7. On February 1, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that ■ was approved for full coverage MA and Plan First Family Planning coverage (PFFP) for March 1, 2024 ongoing. Exhibit A, pp. 16-19.
8. Petitioner and ■ were approved for MA PFFP, effective February 1, 2024.
9. On ■, 2024, Petitioner applied for FAP benefits.
10. On February 23, 2024, the Department sent Petitioner a Verification Checklist (VCL) with a due date of March 4, 2024, requesting Petitioner provide verification of ■ checking account; ■ last 30 days of check stubs or earning statements or verification of employment from ■ (Employer). Exhibit A, pp. 13-15.
11. On February 26, 2024, the Department received checking account verification and ■ weekly paycheck stubs from Employer for pay dates January 12, 2024, January 26, 2024, February 16, 2024, and February 23, 2024. Exhibit A, pp. 20-23.
12. Petitioner did not provide ■ paycheck stub for February 2, 2024 or February 9, 2024.
13. On March 7, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) denying her FAP application for ■ 2024 ongoing because she did not provide a check stub from February 2, 2024. Exhibit A, pp. 8-12.
14. On April 12, 2024, the Department received Petitioner's request for hearing disputing the Department's denial of her FAP application and her household's MA coverage. Exhibit A, pp. 3-4.

### **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 denial of her FAP application for failing to submit [REDACTED] check stub for February 2, 2024 in response to a VCL.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p. 1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The client is allowed 10 calendar days to provide the verification requested. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Here, the VCL requested the last 30 days of check stubs or earning statements for [REDACTED]. The applicable period 30 days prior to the VCL was January 24, 2024 to February 23, 2024. Petitioner testified that [REDACTED] was paid weekly, so there were five pay dates during the 30-day period: January 26, 2024, February 2, 2024, February 9, 2024, February 16, 2024, and February 23, 2024. Petitioner provided check stubs for pay dates January 12, 2024, January 26, 2024, February 16, 2024, February 23, 2024. Petitioner testified that she submitted all the documents requested to the Department. The Department indicated it did not receive the February 2, 2024 check stub. Based on the Department's testimony as to the specific check stubs received, the Department also did not receive the February 9, 2024 check stub. While Petitioner did provide check stubs, Petitioner did not provide 30 days of check stubs as requested by the VCL. The Department properly denied Petitioner's FAP application for failing to provide 30 days of check stubs to the Department.

## **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, [REDACTED], and [REDACTED] disputed their MA coverage. The Department testified that Petitioner and [REDACTED] have PFFP coverage, effective February 1, 2024, and [REDACTED] has MA

Group 2 Under 21 (G2U) with no deductible, effective March 1, 2024. The Department testified that Petitioner, ■■■, and ■■■ had excess income for full-coverage MA. There was no HCCDN provided evidencing the denial of MA coverage for excess income. The Department's testimony as to ■■■s G2U coverage conflicts with the HCCDN that indicates HK has full coverage. It is noted, ■■■ turned ■■■ years old on January 31, 2024 and Healthy Kids Expansion (HKE) coverage is limited to children under the age of 19 years who meet income eligibility. BEM 131 (January 2022), p.1.

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, 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.

Petitioner is ■■■ years old, ■■■ is ■■■ years old, and ■■■ is ■■■ years old. There was no evidence presented that anyone was blind or disabled. Thus, they are not eligible for SSI-related MA. No one is the parent or caretaker of a minor child or receiving Medicare Part B. Therefore, Petitioner, ■■■ and ■■■ are potentially eligible for coverage under HMP.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

An individual is eligible for HMP if the household's MAGI-income does not exceed 133% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status and dependents. Petitioner is married and files taxes jointly with ■■■ and claims one dependent. Therefore, for HMP purposes, Petitioner and ■■■ have a household size of three. ■■■, as the tax dependent of Petitioner and ■■■, also has a household size of 3. See BEM 212 (October 2023), p. 2. The FPL for a group size of three in 2024 is \$25,820.00. See <https://aspe.hhs.gov/poverty-guidelines>. 133% of the annual FPL for a household with three members is \$ 34,340.60 Therefore, to be income eligible for HMP, Petitioner's household's annual income cannot exceed \$34,340.60, or \$ 2,861.71 monthly. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$35,631.60, or \$ 2,969.30 monthly.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine 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 line 11 of IRS tax forms 1040, 1040-SR, and 1040-NR. 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly household income and family size and further consider reasonably predictable changes in income. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018, available at [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf)

■ is the only household member with income. The Department testified it calculated gross income using ■'s weekly paychecks received between January 8, 2024 and February 6, 2024. The Department testified that the household's monthly income was \$■ and annual income was \$■. If the Department's monthly income calculation is correct, then Petitioner, ■ and ■ are under the monthly income limit for HMP and are eligible for HMP coverage. But, if the annual income calculation is correct, they are not. The Department explained the calculations were based on ■'s weekly \$■ gross income, but if that were the case, the monthly and annual income amounts would be \$■ and \$■ respectively. Because the Department presented conflicting monthly and annual household income information, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's income and determined MA eligibility.

The Department testified that ■ had G2U coverage with no deductible. However, 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. HMP is full coverage MA available to individuals age 19-64 years of age. ■ turned 19 prior to the March 1, 2024 effective date of the G2U coverage. The Department did not consider ■ eligibility under full coverage HMP. The Department failed to establish that ■ wasn't eligible for HMP or that G2U provided more beneficial coverage than HMP.

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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's, ■, and ■ eligibility for MA coverage.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to **FAP** and **REVERSED IN PART** with respect to **MA**.

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. Redetermine Petitioner's and [REDACTED] MA eligibility, effective February 1, 2024 ongoing;
2. If eligible, provide Petitioner and [REDACTED] with the most beneficial MA coverage each is eligible to receive from February 1, 2024 ongoing;
3. Redetermine [REDACTED] MA eligibility, effective March 1, 2024 ongoing;
4. If eligible, provide [REDACTED] with the most beneficial MA coverage each is eligible to receive from March 1, 2024 ongoing; and
5. Notify Petitioner in writing of its decisions.

JN/cc



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**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-17-hearings  
BSC4-HearingDecisions  
N. Denson-Sogbaka  
B. Cabanaw  
M. Holden  
EQADHearings  
M. Schaefer  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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██████████, MI ██████████