



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 13, 2024
MOAHR Docket No.: 24-004863
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 6, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cindy Miller, specialist. [REDACTED] Petitioner's spouse (hereinafter, "Spouse") testified on behalf of Petitioner. Rashed Arman of Linguistica International participated as an English-Bengali translator.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's daughter's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

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 February 2024, Petitioner resided in a household that included Spouse and his daughter, [REDACTED] (hereinafter, "Daughter").
2. As of February 2024, Daughter was a permanent U.S. resident with a date of entry on June 7, 2016.
3. Beginning February 2, 2024, Petitioner received the following weekly gross wages (dropping cents): [REDACTED] and [REDACTED]

4. On [REDACTED] 2024, Petitioner applied for FAP benefits and reported a benefit group of six persons.
5. As of March 2024, Petitioner's household included two minor children receiving a total of [REDACTED] in Supplemental Security Income (SSI) and State Supplemental Payments (SSP).
6. As of March 2024, Petitioner's household had no child support, dependent care, or medical expenses.
7. As of March 2024, Petitioner was responsible for a mortgage of \$1,189 and heating and/or cooling expenses.
8. On April 5, 2024, MDHHS determined that Petitioner, Spouse, and Daughter were eligible for Emergency Services Only (ESO)-MA beginning May 2024.
9. On April 5, 2024, MDHHS denied Petitioner's FAP application for unspecified reasons.
10. On April 27, 2024, Petitioner requested a hearing to dispute the ESO restriction on MA benefits for himself, Spouse, and Daughter. Petitioner additionally disputed the denial of FAP benefits.
11. On May 6, 2024, MDHHS approved Petitioner and Spouse for unrestricted MA benefits beginning July 2023.
12. On an unspecified date, MDHHS determined that Petitioner was eligible to receive \$92 in monthly FAP benefits.
13. On June 6, 2024, during an administrative hearing, Petitioner verbally withdrew the disputes of MA benefits for himself and Spouse.

CONCLUSIONS OF LAW

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 requested a hearing, in part, to dispute a restriction on Medicaid benefits for himself and Spouse. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated April 5, 2024, stated that Petitioner and Spouse were eligible for ESO-MA beginning May

2024. Exhibit A, p. 4. During the hearing, Petitioner acknowledged that MDHHS has since favorably resolved the dispute concerning Medicaid for himself and Spouse; Petitioner's acknowledgment was consistent with written notice dated May 6, 2024, approving unrestricted MA benefits for Petitioner and Spouse beginning July 2023.¹ Exhibit A, pp. 10-13. Based on Petitioner's partial hearing request withdrawal, the dispute of Medicaid for himself and Spouse will be dismissed.

Petitioner also requested a hearing to dispute Medicaid eligibility for Daughter. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated April 5, 2024, stated that Daughter was eligible for ESO-MA beginning May 2024.² Exhibit A, p. 4.

To be eligible for full Medicaid coverage (i.e., unrestricted Medicaid), a person must be a United States citizen, or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2024) p. 2. Citizenship/alien status is not an eligibility factor for MA-ESO. *Id.* Any of the following persons are considered to have an acceptable citizenship or alien status (*Id.* pp. 3-4, 5-9, 11-12, 31-33):

- United States citizens (includes those born in Puerto Rico)
- born in Canada and at least 50% American Indian
- member of American Indian tribe
- qualified military alien, spouse, or child of qualified military alien
- refugee under Section 207
- asylee under Section 208
- Cuban/Haitian entrant
- Amerasian
- victim of trafficking
- permanent resident alien with class code of RE, AS, SI or SQ
- deportation withheld (under certain conditions)
- granted conditional entry under 203(a)(7)
- paroled under 212(d)(5) for at least one year (under certain conditions)
- battered aliens, if more than five (5) years in the United States
- permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than five (5) years

MDHHS indicated that Daughter was thought to be ineligible for unrestricted MA benefits due to being a resident alien in the United States for less than five years. During the hearing, MDHHS acknowledged that Daughter was a permanent resident alien in the U.S. since 2016. MDHHS further acknowledged that Daughter's Medicaid eligibility should not be restricted to ESO. Given the evidence, MDHHS improperly restricted Daughter's MA eligibility. As a remedy, Daughter is entitled to a reprocessing of MA benefits.³

¹ Based on the corrected benefit month, MDHHS presumably improperly restricted Medicaid benefits for nearly the past year.

² The notice sent by MDHHS on May 6, 2024, updating Petitioner's and Spouse's MA benefits left Daughter's MA eligibility unchanged. Exhibit A, pp. 10-13.

³ MDHHS testified that Daughter last received unrestricted MA benefits in April 2023. MDHHS also testified that it sent notice of restricted MA benefits for Daughter on April 27, 2023. Administrative hearing

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 BAM, BEM, and RFT.

Petitioner lastly requested a hearing to dispute a denial of FAP benefits. Exhibit A, p. 3. Petitioner applied for FAP benefits on [REDACTED] 2024. MDHHS denied Petitioner's application on April 5, 2024, and failed to provide any basis for the denial. Exhibit A, p. 5. However, MDHHS acknowledged that its denial was improper. It was not disputed that MDHHS reprocessed Petitioner's application and approved Petitioner for \$92 in monthly FAP benefits. Despite the approval, Petitioner contended, without specifics, that he was entitled to receive more FAP benefits.⁴

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 provided a budget document listing most factors and calculations required to determine net income. Exhibit A, p. 9. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of six persons. Petitioner did not dispute the group size.⁵

It was not disputed that two of Petitioner's children together received SSI and SSP totaling [REDACTED]. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2023) p. 34. For FAP, MDHHS is to count a gross SSP benefit. *Id.* Petitioner's group's countable unearned income totaled [REDACTED].

It was not disputed that Petitioner received ongoing employment income. MDHHS testified it projected Petitioner's monthly wages from a 30-day period beginning February 2, 2024. Equifax documents listed the following five gross weekly income payments for Petitioner beginning February 2, 2024: [REDACTED].⁶ Exhibit A, pp. 7-8. For FAP benefits, MDHHS generally counts gross wages.⁷ BEM 501 (January 2024) p. 7. Stable or fluctuating weekly employment income is

jurisdiction restricts clients to disputes over actions when notice is sent within the past 90 days (see BAM 600). Thus, Petitioner is only entitled to an order correcting Daughter's MA eligibility back to the effective benefit month stemming from the oldest known written notice within 90 days of Petitioner's hearing request: May 2024.

⁴ Spouse specifically contended that more FAP benefits should be issued because her two disabled children waste a lot of food. Children wasting food is not a basis for MDHHS to issue additional FAP benefits.

⁵ See BEM 212 for policies on determining group size for FAP benefits.

⁶ Equifax was formerly known as TheWorkNumber.

⁷ 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.

converted to a monthly amount by multiplying the average income by 4.3. BEM 505 (October 2023) p. 8. Multiplying Petitioner's average weekly income by 4.3 results in monthly employment income of [REDACTED] (rounding to nearest dollar).

MDHHS applies a 20% credit for timely reported employment income. Applying the credit to Petitioner's monthly wages of [REDACTED] results in [REDACTED] in countable employment income. Adding the countable income [REDACTED] to the countable unearned income [REDACTED] results in a total countable income of [REDACTED].

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 that all benefit group members had no dependent care, child support, or medical expenses. Thus, Petitioner's group's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$279 (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-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$279) and countable non-shelter expenses (\$0) from Petitioner's group's countable income [REDACTED] results in an adjusted gross income of [REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$1,189. 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.⁸ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,869.

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 \$0.

⁸ 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.

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 [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁹ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance is \$92: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning March 2024.

⁹ 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.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the dispute concerning his and Spouse's MA eligibility. Concerning Petitioner's and Spouse's MA eligibility, Petitioner's hearing request is **DISMISSED**.

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 \$92 in monthly FAP benefits beginning March 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 determined Daughter's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Daughter's MA eligibility beginning May 2024, subject to the finding that MDHHS improperly restricted Daughter's MA eligibility to ESO; and
- (2) Issue benefit supplements and notice, if any, in accordance with policy.

Concerning Daughter's MA eligibility, the actions taken by MDHHS are **REVERSED**.

CG/ml



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

Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
MDHHS-Macomb-20-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]