



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: July 11, 2024  
MOAHR Docket No.: 24-006687  
Agency No.: ██████████  
Petitioner: █████ █████

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 July 10, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Hearing Facilitator.

**ISSUES**

Did the Department properly deny Petitioner's Medical Assistance (MA) application?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

Did the Department properly deny Petitioner's State Emergency Relief (SER) 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. On May █████ 2024, Petitioner submitted an application for MA and FAP benefits (Exhibit A, pp. 13-20).
2. Petitioner was the sole member of her household.
3. Petitioner had income from employment (Exhibit A, pp. 27-30).

4. On June █ 2024, Petitioner submitted an application for SER benefits for assistance with her water utility (Exhibit A, pp. 7-12). Petitioner submitted verification of her water utility bill (Exhibit A, p. 21).
5. On June █ 2024, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied (Exhibit A, pp. 22-26).
6. On June █ 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was approved for the limited coverage Plan First (PF) category (Exhibit A, pp. 31-33).
7. Petitioner was approved for FAP benefits in the amount of █ per month.
8. On June 7, 2024, Petitioner submitted a request for hearing disputing the Department's actions related to her FAP, MA and SER benefit cases.

### **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 submitted an application for FAP benefits. The Department determined that Petitioner was eligible for FAP benefits in the monthly amount of \$█. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 38-40).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department 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 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect

the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2020), pp. 6-7.

Per the budget provided, the Department included \$[REDACTED] in earned income in Petitioner's FAP budget. The Department presented Petitioner's pay statements which showed she was paid on May 3, 2024, in the gross amount of \$[REDACTED] and on May 17, 2024, in the gross amount of \$[REDACTED]. When averaging Petitioner's biweekly income and multiplying by the 2.15 multiplier, it results in standard monthly income of \$[REDACTED]. Therefore, the Department properly determined Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (January 2017), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2022), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$465. Petitioner's FAP benefit group size of one justifies a standard deduction of \$198. RFT 255 (October 2022), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

In calculating the excess shelter deduction of \$[REDACTED] the Department stated that it considered Petitioner's verified housing expense of \$[REDACTED] and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$[REDACTED]. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$[REDACTED] per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the

allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$[REDACTED] excess shelter deduction results in a net income of \$[REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$[REDACTED]. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

## 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 was an ongoing MA recipient under the full coverage HMP program. On May [REDACTED] 2024, Petitioner submitted a new application for MA benefits. The Department determined that Petitioner was only eligible under the limited coverage Plan First MA program.

The Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and did not claim any dependents. Therefore, for HMP purposes, she has a household size of one. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2024 for a household with one member is \$20,782.80. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,731.90. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$20,782.80 annually or \$1,731.90 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal

tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

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. See:

[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)

The Department presented the pay statements submitted by Petitioner (Exhibit A, pp. 27-30). Petitioner was paid on April 19, 2024, in the gross amount of \$1,066.72, and on May 3, 2024, in the gross amount of \$1,092.65. Petitioner was paid on a biweekly basis and did not have any pretax deductions. Petitioner's total countable MAGI-related income was \$2,159.37, which exceeds the income limit under the HMP program. Therefore, the Department properly determined Petitioner's MA eligibility.

## **SER**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner submitted an application for SER benefits for assistance with her water utility. Petitioner submitted verification of the amount owed on her water utility (Exhibit A, p. 21). The Department denied Petitioner's SER application, as Petitioner's water utility account was not delinquent or in shut-off status.

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 302 (December 2022), p. 1. The Department will pay an arrearage to maintain or restores services for certain utilities, including water. ERM 302, p. 1. Payments for current charges are not allowed. ERM 302, p. 1. The Department will verify that the emergency by

obtaining verification that the account is in shut-off status, service is disconnected, or arrearage will be added to a tax bill. ERM 302, pp. 4-5.

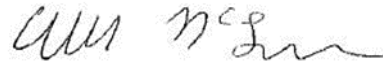
At the hearing, Petitioner conceded that her water utility account was not in shut-off status or delinquent. Petitioner stated that she submitted the application because she had “gotten behind” paying her water utility.

Per policy, before SER benefits are issued, water utility accounts must be in shut-off status, delinquent or disconnected. Therefore, Petitioner was not eligible for SER benefits for assistance with her water utility. Thus, the Department acted in accordance with policy when it denied Petitioner’s SER application.

**DECISION AND ORDER**

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 acted in accordance with Department policy when it denied Petitioner’s SER application and determined Petitioner’s MA and FAP eligibility. Accordingly, the Department’s decisions are **AFFIRMED**.

EM/dm



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**Ellen McLemore**  
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**  
Jeanenne Broadnax  
Wayne-Taylor-DHHS  
**MDHHS-Wayne-18-  
Hearings@michigan.gov**

**HoldenM**

**DensonSogbakaN**

**SchaeferM**

**EQADHearings**

**McLaughlinJ**

**HolzhausenE**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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