



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]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: September 27, 2024  
MOAHR Docket No.: 24-009537  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 September 18, 2024, via teleconference. Petitioner appeared and represented himself. Hannah Czechowski, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-55.

### **ISSUES**

1. Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?
2. Did MDHHS 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. Petitioner was an ongoing recipient of FAP and MA.
2. On [REDACTED] 2024, Petitioner submitted a Redetermination for FAP and MA to MDHHS (Exhibit A, p. 8).
3. On August 16, 2024, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 26).
4. On August 16, 2024, Petitioner filed a hearing request (Exhibit A, p. 3).

5. On August 19, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that he was denied for FAP because his income exceeded the income limit for the program (Exhibit A, p. 38). Petitioner's FAP case was closed, effective August 1, 2024 ongoing (Exhibit A, p. 38).
6. On August 19, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner and [REDACTED] (Spouse) were eligible for Transitional MA (Full Coverage), effective August 1, 2024 to July 31, 2024 and Plan First MA (Limited Coverage), effective September 1, 2024 ongoing (Exhibit A, p. 43).

### **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).

#### **The Food Assistance Program (FAP)**

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 determined that Petitioner was ineligible for FAP benefits, effective August 1, 2024 ongoing, because the household was over the income limit for the program. To determine whether MDHHS properly calculated Petitioner's eligibility for FAP, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. Additionally, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (February 2024), pp. 1-2. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1-2; BEM 554 (July 2024), p. 1; BEM 556 (May 2024), pp. 1-7.

At the hearing, Petitioner credibly testified that he paid child support income monthly and that he reported this expense to MDHHS. As an SDV group, Petitioner's household was eligible for a deduction for eligible child support expenses. MDHHS failed to

present sufficient evidence to show that it properly budgeted or attempted to verify this expense, pursuant to policies in BAM 130 (May 2024). Department policy provides that MDHHS is required obtain verification when an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. It failed to demonstrate that it did so here.

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 terminated Petitioner's FAP benefits.

### **Medicaid (MA)**

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 the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, MDHHS determined that Petitioner and Spouse were over the income limit for full-coverage MA, effective September 1, 2024 ongoing. Although there appears to be a typographical error on the Health Care Coverage Determination Notice (Exhibit A, p. 43), MDHHS testified that Petitioner and Spouse were previously receiving Transitional MA (TMA) until they were determined to be over the income limit for the program. Beginning September 1, 2024 ongoing, Petitioner and Spouse were approved for Plan First MA, a limited coverage category.

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.* Persons may qualify under more than one MA category. *Id.*, p. 3. 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.*

TMA is an automatic coverage group available to former recipients of Low Income Family (LIF) MA. BEM 111 (April 2018), p. 1. LIF is a MAGI-related MA category available to adults with a dependent child and income under 54% of the Federal Poverty Level and children with Income under 54 percent of the federal poverty level. BEM 110 (April 2018), p. 1. Individuals may receive TMA for up to 12 months when ineligibility for Low Income Family (LIF) relates to income from employment of a caretaker relative. BEM 111, p. 1. 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.

Here, it is unclear whether MDHHS evaluated Petitioner and Spouse's eligibility for all applicable MA categories. The record shows that they were previously eligible for TMA MA, which is available to individuals previously eligible for LIF. Petitioner and Spouse were potentially eligible for MA categories based on their household composition and status as caretakers. Petitioner reported that his household consisted of himself, Spouse, a minor child and his brother/half-brother, who has a disability (Exhibit A, p. 9). MDHHS failed to present sufficient evidence to show that Petitioner and Spouse were considered for MA categories based on their caretaker statuses.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 eligibility for FAP, effective August 1, 2024 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that he was eligible to receive, but did not, from August 1, 2024 ongoing;
3. Redetermine Petitioner's and Spouse's eligibility for MA coverage, effective September 1, 2024 ongoing;
4. Provide Petitioner and Spouse with the most beneficial category of MA coverage that they are eligible to receive; and
5. Notify Petitioner of its decision(s) in writing.

LJ/pt

  
\_\_\_\_\_  
**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:**

**DHHS**

Hannah Czechowski  
Genesee County DHHS Clio Rd Dist.  
4809 Clio Road  
Flint, MI 48504

**MDHHS-Genesee-Clio-Hearings@michigan.gov**

**Interested Parties**

BSC2  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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