



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

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Date Mailed: November 15, 2024
MOAHR Docket No.: 24-009626
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 November 6, 2024, via teleconference. Petitioner appeared and represented herself. Caleb Nygren, 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. 1-78.

ISSUES

1. Did MDHHS properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?
2. Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) and Medicare Savings Program (MSP) 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 benefits and MA coverage.
2. On ██████████ 2024, Petitioner submitted a redetermination for FAP (Exhibit A, p. 11).
3. On ██████████ 2024, MDHHS sent Petitioner an Employment Verification Form requesting to verify employment for Petitioner (Exhibit A, p. 18).
4. On July 17, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case would close, effective July 1, 2024 ongoing (Exhibit A, p. 32). The

reason for the closure was that her net income exceeded the income limit for the program (Exhibit A, p. 33).

5. On July 17, 2024, MDHHS sent Petitioner a Verification Checklist (VCL), requesting proof of income tax refund (federal) by July 29, 2024 (Exhibit A, p. 42).
6. On July 17, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for Plan First MA, a limited coverage category, effective August 1, 2024 ongoing (Exhibit A, p. 37). The notice indicated that Petitioner was not eligible for Medicare Savings Program (MSP) coverage due to not meeting the basic criteria for the program (Exhibit A, p. 38).
7. On August 8, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner was not eligible for MSP due to not meeting the basic criteria for the program (Exhibit A, p. 59).
8. On August 15, 2024, Petitioner requested a hearing (Exhibit A, p. 7).

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 closed Petitioner's FAP case due to excess income. Petitioner disputed MDHHS' determination.

To determine eligibility for FAP, MDHHS must consider all earned and unearned income available to the household. BEM 500 (April 2022), pp. 1-5. A group's FAP benefit rate is based on actual income and prospective income. BEM 505 (October 2023), p. 1. Prospective income is the best estimate of income expected to be received by the group during a specific month. *Id.* To determine a group's prospective income, MDHHS is required to seek input from the client whenever possible. *Id.* Each source of income is converted into a standard monthly amount. *Id.* Stable income refers to income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. *Id.* Fluctuating income is income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. *Id.*, p. 2. Contractual or single payment income is that is received in one month that is intended to cover more than one month. *Id.* Irregular income refers to income that

is not received on a regular schedule or that is received unpredictably, such as a person self-employed doing snow removal. *Id.*

MDHHS converts stable and fluctuating income to a standard monthly amount by multiplying weekly income by 4.3, multiplying amounts received every two weeks by 2.15 or adding amounts received twice a month. BEM 505 (October 2023), p. 8. For irregular income, MDHHS determines the standard monthly amount by adding the amounts entered together and dividing by the number of months used. *Id.*, p. 9. For fluctuating or irregular income, MDHHS may use the past 60 or 90 days of income if the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect what is expected to be received in the benefit month. *Id.*, p. 8.

MDHHS based Petitioner's income determination on the receipt of Retirement, Survivors, and Disability Insurance (RSDI) and employment income. MDHHS determined that Petitioner's monthly RSDI income was \$ [REDACTED] (Exhibit A, p. 4). Petitioner did not dispute this amount. Regarding employment income, MDHHS budgeted \$ [REDACTED] per month based on check stubs that Petitioner provided on [REDACTED] 2024 (Exhibit A, p. 4). The check stubs provided showed weekly amounts received from [REDACTED] (Employer) from [REDACTED] 2024 to [REDACTED] 2024 (Exhibit A, pp. 22-29). Petitioner testified that her employment income fluctuated and disputed the amount that MDHHS budgeted. The amounts on the checks show a substantial variation in pay. It is unclear from the record how MDHHS standardized the income and whether it requested 60 or 90 days of income from Petitioner, pursuant to policy. Additionally, MDHHS is required to request additional verification from Petitioner if an eligibility factor is unclear or in dispute, pursuant to policy in BAM 130 (May 2024), pp. 1-10. MDHHS failed to establish 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 MDHHS 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 was eligible for Plan First MA, a limited coverage category, and not eligible for Medicare Savings Program (MSP) benefits. MDHHS alleged that Petitioner was denied full-coverage MA due to exceeding the asset limit for the program and that she was ineligible for MSP benefits due to exceeding the income limit for the program.

MA includes several sub-programs or categories. BEM 105 (January 2024), 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.*

Petitioner was potentially eligible for SSI-related MA based on the receipt of RSDI. The SSI-related MA asset limit depends on the category of MA that the person is eligible to receive. BEM 400 (June 2024), pp. 7-8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7. Assets include cash, personal property, and real property. BEM 400, pp. 1-2. Personal property includes currency, savings/checking accounts, and other items. BEM 400, p. 2. MDHHS is required to verify the value of countable assets at application, redetermination, and when there is a reported change. BEM 400, p. 65.

MDHHS determined that Petitioner was over the asset limit for SSI-related MA categories because she reported over \$4,000.00 in cash assets when she submitted the FAP redetermination (Exhibit A, p. 13). MDHHS determined that Petitioner had \$[REDACTED] in liquid assets, which exceeded the asset-limit of \$2,000.00 for SSI-related MA categories. BEM 400, p. 9. Subsequently, Petitioner provided a statement from [REDACTED] (Exhibit A, p. 52). Based on the record, it is unclear whether Petitioner exceeded the asset limit for the month(s) being tested.

Regarding Petitioner's eligibility for MSP benefits, MDHHS determined that Petitioner exceeded the income limit for the program, which was \$[REDACTED] as of [REDACTED], 2024. RFT 242 ([REDACTED] 2024), p. 1. However, as described in more detail above, it is unclear how MDHHS determined Petitioner's monthly employment income, given the substantial fluctuation in pay.

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 eligibility for MA and MSP benefits.

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 benefits, effective July 1, 2024 ongoing;
2. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive, but did not, from July 1, 2024 ongoing;
3. Redetermine Petitioner's eligibility for MA and MSP, effective August 1, 2024 ongoing;
4. Provide Petitioner with the most beneficial MA and MSP coverage that she is eligible to receive, effective August 1, 2024 ongoing; and
5. Notify Petitioner of its decisions 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

Janice Collins
Genesee County DHHS Union St District Office
125 E. Union St 7th Floor
Flint, MI 48502
MDHHS-Genesee-UnionSt-Hearings@michigan.gov

Interested Parties

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

Via-First Class Mail:

Petitioner

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