



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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██████████ MI 48045

Date Mailed: November 7, 2024  
MOAHR Docket No.: 24-010308  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 October 30, 2024, from Detroit, Michigan. Petitioner was represented by her husband/Authorized Hearing Representative (AHR), ██████████ who will be referred to as the Petitioner in this Hearing Decision. The Department of Health and Human Services (Department) was represented by Layana Jefferson, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case and determine Medical Assistance (MA) eligibility for Petitioner and his wife?

**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 and his wife were ongoing recipients of MA benefits.
2. Petitioner was an ongoing recipient of FAP benefits. In connection with a redetermination, Petitioner's eligibility for FAP benefits was reviewed. On or around July 31, 2024, Petitioner submitted a redetermination for his FAP case. (Exhibit A, pp. 8-11)
3. On or around August 8, 2024, the Department sent Petitioner a Verification Checklist (VCL) for the FAP and MA cases, instructing him to submit proof of income and assets for the household, as well as proof of the household federal income tax refund by August 19, 2024. (Exhibit A, pp. 12-14)

4. On or around August 20, 2024, the Department sent Petitioner a Notice of Case Action, advising that August 1, 2024, his FAP case would be closed because the household's net income exceeded the income limit. (Exhibit A, pp. 47-51)
5. On or around August 20, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising that effective October 1, 2024, his MA case would be closed because he failed to submit verification of the savings account. The Health Care Coverage Determination Notice further advised that effective October 1, 2024, Petitioner's wife [REDACTED] was ineligible for MA under the Healthy Michigan Plan because the household's countable income exceeded the limit. (Exhibit A, pp. 52-58)
  - a. The Department asserted that [REDACTED] was ineligible for full coverage MA under the Ad Care category due to excess income. The Department asserted that [REDACTED] and [REDACTED] MA eligibility under a Group 2 category was not determined because of the failure to verify the bank savings account.
6. On or around September 9, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the FAP and MA programs.

### **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.

Petitioner requested a hearing disputing the closure of his FAP case effective August 1, 2024. The Department representative testified that after processing Petitioner's redetermination, the Department concluded that Petitioner's household had excess income and was no longer eligible to receive FAP benefits.

In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. Petitioner is subject to the net income test. BEM 213 (March 2024); BEM 212 (March 2024); BEM 550 (February 2024); RFT 250 (October 2023). The Department properly applied a net income limit for Petitioner's confirmed six person group size of \$3,357. RFT 250, p. 1. The

Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 42-43).

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 (April 2022), pp. 1 – 5. 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 2024), pp. 6-7. 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 2023), 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. Weekly income is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

The budget shows earned income of [REDACTED] which the Department testified consists of employment earnings for Petitioner and his wife [REDACTED]. The Department relied upon paystubs submitted in connection with the redetermination, and specifically considered [REDACTED] weekly pay from her employment with [REDACTED] of [REDACTED] paid on July 19, 2024, [REDACTED] paid on July 26, 2024, \$369.02 paid on August 2, 2024, and [REDACTED] paid on August 9, 2024. (Exhibit A, pp. 15-22). When converted to a standard monthly amount, Petitioner's wife has earned income of [REDACTED]. The Department also considered Petitioner's biweekly earnings from his employment with [REDACTED] specifically, [REDACTED] paid on July 12, 2024, and [REDACTED] paid on July 26, 2024. (Exhibit A, pp. 23-24). When converted to a standard monthly amount, Petitioner has earned income of [REDACTED]. Upon review, the Department properly calculated the earned income of [REDACTED] for the household.

The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2024), pp. 29-32. Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. BEM 503, pp.6-10. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are

expected, excluding any unusual amounts or those not expected to continue. BEM 505 (October 2023), pp. 3-5.

The Department concluded that Petitioner's household had unearned income in the total amount of [REDACTED] which the Department representative testified consisted of [REDACTED] in RSDI for Petitioner, [REDACTED] in RSDI for two of Petitioner's children, and child support for one child in the amount of [REDACTED]. The Department identified the specific child support amounts considered as [REDACTED] received in May 2024, [REDACTED] received in June 2024, and [REDACTED] received in July 2024. Although the total of the unearned income amounts relied upon is [REDACTED] and not [REDACTED] as identified on the budget by the Department, the error is harmless, as the household is well above the income limit, which will be discussed further below.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (February 2024), pp. 1-2. Petitioner's FAP 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.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (July 2024), p. 1; BEM 556 (May 2024), p. 1-8.

The Department properly applied an earned income deduction of \$1,314, which is 20% of [REDACTED] earned income calculation. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support, or medical expenses and therefore, the budget properly did not include any deduction for dependent care, child support or medical expenses. See BEM 554. The Department properly applied a standard deduction of \$279 which was based on Petitioner's confirmed group size of six. RFT 255 (October 2023), p. 1. With respect to the calculation of the excess shelter deduction, the Department properly considered Petitioner's confirmed housing expenses at the time of the redetermination of \$1,291 in monthly rent and applied the \$680 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Because Petitioner's net income of [REDACTED] is greater than the \$3,357 net income limit based on his six-person household group size, the Department properly closed Petitioner's FAP case effective August 1, 2024.

## **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.

Petitioner disputed the Department's determination that he and his wife were ineligible for MA benefits effective October 1, 2024. Although there was some discussion regarding MA eligibility for Petitioner's children, it was established that Petitioner's children were denied Medicare Savings Program (MSP) benefits because they were not enrolled in Medicare, which Petitioner did not dispute. Petitioner did not assert that any MA benefits were terminated for his children. Thus, the hearing proceeded with respect to MA eligibility for Petitioner and his wife, [REDACTED]

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 Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. Group 2 categories are considered a limited benefit because a deductible is possible. BEM 105, 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.

## **Healthy Michigan Plan (HMP) MA for Petitioner's wife** [REDACTED]

At the hearing, the Department representative testified that Petitioner's wife was previously approved for full coverage MA benefits under the HMP, however, after receiving verification of income in connection with the VCL, she was no longer eligible for MA under the HMP because the household income exceeded the limit.

Because Petitioner's wife is under age 65, is not disabled, and not enrolled in Medicare, she is potentially eligible for full coverage MA under the 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. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). Based on the evidence presented at the hearing, Petitioner's tax filing group was six people, which included himself, his wife, and four children. Therefore, for HMP purposes, Petitioner's wife has a household size of six. The FPL for a group size of six in 2024 is \$41,960. 133% of the annual FPL in 2024, for a household with six members is \$55,806.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$55,806.80, and thus, the monthly income cannot exceed \$4,650.57, as they were current beneficiaries. 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. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$57,904.80, or \$4,825.40, 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 (April 2022), 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. 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries of MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. 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)

Based on the paystubs submitted for review, Petitioner's wife has MAGI from her employment totaling [REDACTED] Petitioner's paystubs from his employment reflect federal taxable wages of [REDACTED] from July 12, 2024, and [REDACTED] from July 26, 2024. While the RSDI of the children is not countable, Petitioner's RSDI of [REDACTED] is countable for MAGI purposes. The Department did not specify whether it included the above referenced child support was in the MAGI calculation for the household. However, even without the child support, based on the employment earnings of Petitioner and his wife, as well as Petitioner's RSDI, the MAGI for the household is [REDACTED] which is greater than the income limit for their group size. Therefore, the Department properly concluded that Petitioner's wife was not eligible for MA benefits under the HMP.

**MA eligibility for Petitioner and Group 2 eligibility for Petitioner's wife**

Although the Department representative testified that Petitioner was ineligible for full coverage MA benefits under the Ad Care category due to excess income; a review of the August 20, 2024, Health Care Coverage Determination Notice indicates that the Department determined Petitioner was ineligible for MA because of a failure to return verification of the bank account. While the Department asserted that Petitioner would also be ineligible for AdCare due to excess income and presented evidence in support of its action, because the denial reason identified on the Health Care Coverage Determination Notice indicates that the case closed for failure to verify, that action will be reviewed below.

There is no asset test for MAGI-related MA such as HMP. However, asset eligibility is required for MA coverage under Group 2 and SSI-related MA categories. BEM 400 (June 2024), p. 1-3, 7; BEM 105, p. 1. Checking and savings accounts are assets. The Department will consider the value of cash assets (which includes money in checking, savings, and Direct Express accounts) in determining a client's asset eligibility for MA. BEM 400, pp. 14-16.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3. For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has lapsed. BAM 130, pp. 8-9.

The Department representative testified that in connection with the VCL, Petitioner was instructed to submit proof of the household's income and asset information by August 19, 2024. The Department representative testified that although Petitioner timely submitted verification of the household's income and some bank account asset information, including a checking account from Huntington bank, Petitioner failed to timely submit proof of a Huntington bank savings account for account number ending in [REDACTED]. There was no evidence presented that Petitioner requested an extension of time to submit the requested verifications or that Petitioner requested assistance from the Department to obtain the verifications. As a result, the Department issued the August 20, 2024, Health Care Coverage Determination Notice, closing Petitioner's MA case effective October 1, 2024.

The Department representative testified that Petitioner's wife's MA eligibility under Group 2 Caretaker category and Petitioner's eligibility for MA under the Group 2 programs (Aged, Blind, Disabled/Group 2 Caretaker) and Freedom to Work category was denied because the household failed to submit verification of the Huntington savings account. Petitioner testified that he submitted all the requested verifications in July 2024, and again in August 2024 by uploading the documents to his Mi-Bridges account online. He testified that he submitted them a third time in October 2024. The Department representative reviewed Petitioner's electronic case file and confirmed that the Department received verification of the Huntington savings account on October 27, 2024, and October 28, 2024, however, it was too late as the case had already closed. The Department did not find any record of the Huntington savings account having been submitted electronically in July 2024 or August 2024. Later in the hearing, Petitioner confirmed that he submitted the Huntington savings account after the request for hearing.


Petitioner asserted that he has a MiABLE account and that the funds deposited into the account are not countable for FAP or MA purposes. The Department representative testified that while the value of the cash in MiABLE accounts are not countable for asset eligibility, no such policy exclusion is available for the income that is deposited into the account. Thus, the Department asserted that the income is still countable for FAP and MA purposes.

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 because Petitioner failed to timely submit verification of the Huntington savings account ending in [REDACTED] by the due date identified in the VCL, the Department acted in accordance with Department policy when it closed Petitioner's MA case effective October 1, 2024, and did not determine MA eligibility for Petitioner's wife under a Group 2 category. Petitioner was informed that he is entitled to submit a new application for MA benefits for current eligibility to be determined.

### **DECISION AND ORDER**

Accordingly, the Department's FAP and MA decisions are **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
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:**

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**Interested Parties**

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**Via First Class Mail:**

**Authorized Hearing Rep.**

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**Petitioner**

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