



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

██████████
██████████
██████████, MI ██████████

Date Mailed: November 15, 2024
MOAHR Docket No.: 24-010789
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on November 6, 2024. Petitioner appeared and represented herself. Petitioner's spouse, ██████████ ██████████ (Spouse), was also present as a participant. The Department of Health and Human Services (Department) was represented by Quron Williamson, Eligibility Specialist. Translation services were initially provided by Muhammad Rashed, then by Suvechhya Ahman, and then by Ratft Arman, independent English-Bengali translators engaged by the Department.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application, effective ██████████ ██████████ 2024?

Did the Department properly determine Petitioner's and Spouse's eligibility for Medicaid (MA) coverage effective September 1, 2024?

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 ██████████ ██████████ 2024, the Department received an application for FAP and MA from Petitioner for herself and Spouse, and FAP for their ██████████ year old daughter, ██████████ (Daughter). (Exhibit A, pp. 9 – 17).

2. On September 16, 2024, the Department received a completed Health Care Coverage Supplemental Questionnaire from Petitioner. (Exhibit A, pp. 35 – 38).
3. On September 16, 2024 and September 17, 2024, the Department received paystubs from Petitioner for herself and Spouse. The paystubs reflect that Petitioner is paid weekly and Spouse is paid monthly. (Exhibit A, pp. 18 – 28).
4. On September 16, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that denied Petitioner FAP due to excess gross income effective September 9, 2024. The Department determined the FAP group's income was \$5,561 per month. (Exhibit A, pp. 29 – 30).
5. On September 23, 2024, the Department received two requests for hearing from Petitioner. One disputed the Department's denial of Petitioner's application for FAP, the other disputed the Department's denial of Petitioner's and Spouse's MA application. (Exhibit A, pp. 6, 8).
6. On September 30, 2024, the Department sent Petitioner a second NOCA that denied Petitioner FAP due to excess income effective September 9, 2024. The NOCA did not include the amount of the FAP group's monthly income. (Exhibit A, pp. 39 – 40).
7. On September 30, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved Petitioner and Spouse for Plan First Family Planning (PFFP) effective September 1, 2024 ongoing. (Exhibit A, pp. 43 – 44).

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).

Petitioner requested a hearing to dispute denial of her application for FAP and MA. The Department denied Petitioner FAP due to excess income and approved Petitioner and Spouse for PFFP MA coverage.

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 to dispute the Department's denial of her application for FAP for herself, Spouse, and Daughter. Initially, the Department denied Petitioner FAP benefits due to excess gross income, effective September 8, 2024. The Department subsequently denied Petitioner FAP due to excess net income, effective September 8, 2024.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income and must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5. For purposes of FAP, wages, including commissions and bonuses among other things, are counted as earned income and may be prospected. BEM 501 (January 2024), pp. 6 – 7. The calculation of earned income begins with gross income, which is the amount of income before any deductions such as taxes and may be more than the amount an individual actually receives. BEM 500, pp. 4 – 5. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (October 2023), pp. 1, 6 – 7. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of weekly amounts is multiplied by 4.3. BEM 505, pp. 8 – 9.

In this case, Petitioner applied for FAP benefits for her household of three on [REDACTED] 2024. (Exhibit A, pp. 9 – 17). During the application process, Petitioner reported she and Spouse each had earnings from employment, that she was paid weekly, and Spouse was paid monthly; and provided paystubs for herself and Spouse to the Department. (Exhibit A, pp. 14, 18 – 28).

The Department introduced a net income budget at the hearing to show how it determined Petitioner was ineligible for FAP due to excess net income. (Exhibit A, p. 48). To calculate the FAP group's countable income, the Department testified that it totaled Petitioner's weekly wages, from August 16, 2024 through September 13, 2024, converted the average of those paystubs to a standardized monthly amount to determine her earned income, and added Spouse's monthly income of \$653.20 from his pay date of September 13, 2024. (Exhibit A, pp. 18 – 28). Based on its calculation, the Department determined Petitioner and Spouse had \$[REDACTED] in gross earned income. (Exhibit A, p. 48).

A review of the evidence confirms that the Department totaled Petitioner's weekly gross wages from August 16, 2024, August 23, 2024, August 30, 2024, and September 6, 2024, divided that total by the four weeks, and multiplied the average by 4.3 as required by policy (BEM 505, pp. 8 – 9), and added Spouse's gross monthly income to determine the total monthly earned income. The Department excluded Petitioner's gross earnings of \$1,190.71 of September 13, 2024 (Exhibit A, pp. 18 – 27), which was favorable to Petitioner. Although Petitioner disputed the Department's inclusion of a \$250 monthly attendance bonus paid to her on August 16, 2024, because she is not guaranteed to receive the bonus, a review of her year-to-date earnings attributable to the monthly

bonus confirms that Petitioner received the bonus during every month of 2024. (Exhibit A, pp. 18, 26). Therefore, the Department properly determined the FAP group's countable earned income was \$[REDACTED] per month.

Once Petitioner's countable income has been calculated, the Department must determine whether Petitioner is entitled to any deductions from that income. There was no evidence that Petitioner, Spouse, or Daughter are senior, disabled, or a disabled veteran (SDV). FAP groups with earned income and no SDV members are entitled to the following deductions:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction up to the maximum allowed in RFT 255.

BEM 550 (February 2024), p. 1; BEM 554 (January 2024) p. 1; BEM 556 (January 2023) pp. 3 – 6.

First, the FAP group had gross earned income totaling \$4,005 and therefore was entitled to 20% reduction of the earned income amount. This results in a deduction of \$801. Next, all groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Petitioner is a group of three and groups of one to three received a standard deduction of \$198 until October 1, 2024, when the amount increased to \$204. RFT 255 (October 2023, October 2024). The budget provided by the Department reflects the higher deduction and Department properly deducted \$204 from Petitioner's countable income, as shown on the budget. (Exhibit A, p. 48). Petitioner testified that there were no dependent care expenses or court ordered child support expenses, and no deduction for either of those expenses are reflected on the budget. (Exhibit A, p. 48).

Next, the Department determines any excess shelter expense deduction. To start, the Department first calculates Petitioner's adjusted gross income (AGI) by subtracting the allowable deductions outlined above from the countable income. Based on the budgeted earned income, Petitioner's gross income was \$[REDACTED]. Once the earned income deduction of \$801 and the standard deduction of \$204 were applied, Petitioner's AGI was \$3,000. (Exhibit A, p. 48).

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. Petitioner reported a housing expense of \$1,274.63 per month and that she pays for heat and other utilities. (Exhibit A, p. 50). When a FAP group has heating and other utility expenses separate from the rental payment, it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. As of October 1, 2024, the h/u standard

amount is \$664 (RFT 255) and the Department properly budgeted Petitioner's housing expense and used the h/u standard amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 50).

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of Petitioner's AGI from the total shelter amount. BEM 556 (May 2024), pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$1,274.63 and the h/u standard of \$664 was \$1,939. (Exhibit A, p. 50). When 50% of Petitioner's \$3,000 AGI, in the amount of \$1,500, is subtracted from the total shelter amount of \$1,939, Petitioner's excess shelter deduction was \$439. When Petitioner's excess shelter deduction of \$439 was subtracted from her AGI of \$3,000, Petitioner's net income was \$2,561. (Exhibit A, p. 48).

The net income limit for a FAP group of three was \$2,072 until October 1, 2024, when it increased to \$2,152. RFT 250 (October 2023, October 2024). Based on Petitioner's three person FAP group size and net income of \$2,561, Petitioner had excess net income and was ineligible for benefits. RFT 260 (October 2023, October 2024), p. 36. Therefore, the Department properly determined Petitioner had excess net income for purposes of FAP.

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 requested a hearing to dispute the Department's determination of Petitioner's and Spouse's eligibility for MA. The Department approved Petitioner and Spouse for PFFP MA coverage, effective September 1, 2024.

Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1. Individuals who do not qualify for one of the foregoing coverages may qualify for PFFP, which is a limited coverage MA category. BEM 124 (July 2023), p. 1.

In this case, Petitioner is ■ and Spouse is ■ years old, they are the caretakers of their minor child, Daughter, and neither reported they are blind, disabled, or pregnant. (Exhibit A, pp. 9 – 17, 35 – 38). Therefore, Petitioner and Spouse are each potentially eligible for under full-coverage HMP, Group 2 Caretaker (G2C), and/or PFFP MA coverage.

HMP and PFFP are MAGI-related MA programs, with HMP providing full coverage and PFFP (BEM 124, p. 1) providing limited coverage. G2C is not SSI-related or MAGI-related MA and is a Group 2 program for parents and other caretaker relatives of dependent children, and subject to an individual monthly deductible for each eligible recipient when the group has excess income. BEM 135 (October 2015), p. 1 – 2. While Petitioner and Spouse may qualify for coverage under three MA programs, because HMP offers full MA coverage and does not have a deductible, it is a more beneficial coverage for Petitioner and Spouse than the others.

To qualify for health care coverage under HMP, the individual must:

- be 19 – 64 years of age,
- not qualify for or be enrolled in Medicare,
- not qualify for or be enrolled in other Medicaid programs,
- not be pregnant at the time of application,
- meet Michigan residency requirements,
- meet Medicaid citizenship requirements, and
- have income at or below 133 percent Federal Poverty Level (FPL).

BEM 137, p. 1.

An individual is eligible for HMP if their 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. Here, Petitioner and Spouse file taxes jointly and claim Daughter as their dependent. Therefore, for HMP purposes, Petitioner and Spouse each have a household size of three. BEM 211 (October 2023), pp. 1 – 2.

Beginning in January 2024, the annual FPL for a household size of three is \$25,820. 89 Fed Reg 2961 (January 2024). The HMP income limit, 133% of the FPL, for a household size of three is \$34,340.60 annually, or \$2,861.72 per month. For HMP, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500, p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5. 5% of the FPL of \$25,820 is \$1,291. Therefore, the total income limit, with the disregard, was \$35,631.60, or \$2,969.30 per month.

To determine Petitioner's MAGI-income, the Department must calculate the countable income of the fiscal group. BEM 500, p. 1. To determine financial eligibility for MAGI-related MA, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, pp. 3 – 4. MAGI is based on Internal Revenue Service

rules and relies on federal tax information from current income sources. BEM 500, pp. 3 – 4; see also 42 CFR 435.603(h)(1),(2).

The Department uses current monthly income, and reasonably predictable changes in income, to calculate a client's MAGI-income. (MAGI-Based Income Methodologies (SPA 17-0100), eff. 11/01/2017, app. 03/13/2018)¹; 42 CFR 435.603(h). MAGI-income is calculated for each income earner in the household by using the "federal taxable wages" reported on earner's paystubs or, if federal taxable wages are not reported on the paystub, by using "gross income" minus amounts deducted by the employer for child care, health coverage, and retirement plans. A client's tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest, if any, are added to the client's adjusted gross income (AGI) from the client's tax return. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

On the application, Petitioner reported she earned \$█ per hour, worked 40 hours per week, and that she was paid weekly. (Exhibit A, p. 14). She also reported that Spouse earned \$11 per hour, worked 10 hours per week, and was paid monthly. (Exhibit A, p. 14). As discussed previously, Petitioner also provided paystubs for herself and Spouse to the Department. (Exhibit A, pp. 18 – 28). The Department introduced a MAGI eligibility determination that showed Petitioner and Spouse have \$48,336 in annual income, but did not explain how it calculated their current monthly income. However, a review of the evidence reflects that Petitioner's self-attested income for herself and Spouse totaled \$█ per month, and their actual earnings reported on the paystubs were more than Petitioner reported on the MA application. (Exhibit A, pp. 14, 18 – 28). Therefore, while it was unclear how the Department calculated Petitioner's and Spouse's current monthly income, because the evidence established that Petitioner's and Spouse's income was more than the \$2,969.30 per month HMP limit including the disregard, the Department properly determined Petitioner and Spouse were each ineligible for HMP.

Because Petitioner and Spouse have a minor child who lives in the home, they may each be eligible for G2C, which is the next most beneficial MA coverage available to each of them based on their circumstances. Here, the Department testified that it did not consider Petitioner's or Spouse's eligibility for MA under G2C. Therefore, the Department did not act in accordance with Department policy when it failed to determine if Petitioner and Spouse were each eligible for MA under G2C.

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 determined Petitioner had excess net income for purposes of FAP and when it determined Petitioner and Spouse were

¹ https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf?rev=223500fb0cf44dd78fd995e635fbaec8&hash=6A39DE5525422009644221A5E57513D7, p. 7.

ineligible for HMP; but did not act in accordance with Department policy when it failed to determine if Petitioner and Spouse were each eligible for MA under G2C.

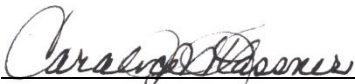
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to Petitioner's and Spouse's individual MA eligibility.

THE DEPARTMENT 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 and Spouse's individual eligibility for MA for September 1, 2024 ongoing;
2. If eligible, provide Petitioner and Spouse with the most beneficial MA coverage they are eligible to receive for September 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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
N. Denson-Sogbaka
B. Cabanaw
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

██████████
████████████████████
██████████, MI ██████████