



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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██████████, MI ██████████

Date Mailed: December 12, 2024  
MOAHR Docket No.: 24-011846  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**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 via Microsoft Teams on December 9, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Joe Alls, specialist.

**ISSUES**

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Beginning August 16, 2024, excluding retroactive payments and COVID-19 bonuses, Petitioner received gross biweekly wages of \$██████ and \$██████
2. On ██████████ 2024, Petitioner applied for FAP and MA benefits and reported a household with no other persons and ongoing employment.

3. As of September 2024, Petitioner received ongoing gross Retirement, Survivor, Disability Insurance of \$1,410 due to age and/or disability; Petitioner's net RSDI was reduced for payment of a Part B Medicare premium.
4. As of September 2024, Petitioner was responsible for electricity and telephone obligations, as well as monthly housing costs of \$334.
5. On September 12, 2024, MDHHS determined that Petitioner was ineligible for FAP benefits due to excess income.
6. On September 12, 2024, MDHHS determined Petitioner to be ineligible for MSP benefits beginning October 2024.
7. On October 11, 2024, Petitioner requested a hearing to dispute the denials of FAP and MSP benefits.

### **CONCLUSIONS OF LAW**

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] 2024. Exhibit A, pp. 7-21. A Notice of Case Action dated September 12, 2024, stated that Petitioner was ineligible for FAP benefits due to excess income. Exhibit A, pp. 28-29.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income is based on group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing all FAP eligibility factors and calculations. Exhibit A, pp. 25-27. A budget summary from the denial notice also listed FAP budget factors. Exhibit A, p. 29. During the hearing, all relevant budget factors were discussed with Petitioner.

MDHHS factored a FAP benefit group including only Petitioner. Petitioner did not dispute the benefit group size.<sup>1</sup>

MDHHS calculated gross monthly wages for Petitioner of \$1,312. MDHHS calculated Petitioner's wages from biweekly pay documents dated August 16, and August 30, 2024. Exhibit A, pp. 22-23. In determining countable wages, MDHHS disregarded a

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<sup>1</sup> See BEM 212 for policies on determining group size for FAP benefits.

retroactive payment to Petitioner of \$1,540 on Petitioner's August 30, 2024 check. MDHHS also disregarded hazard pay bonuses of \$3.20 per hour from each check. Following the reductions, Petitioner was left with respective gross biweekly wages of \$█ and \$█. For FAP benefits, MDHHS generally counts gross wages.<sup>3</sup> BEM 501 (July 2017), p. 7. MDHHS converts stable or fluctuating biweekly income to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2023) p. 8. Multiplying Petitioner's average biweekly wages by 2.15 results in a total gross monthly income of \$1,312 (dropping cents): the same wages calculated by MDHHS. MDHHS issues a 20% credit for timely reported employment income. Multiplying Petitioner's gross monthly wages by 80% results in countable group wages of \$1,049 (dropping cents).

An award letter from the Social Security Administration listed gross monthly RSDI for Petitioner of \$1,410.<sup>4</sup> Exhibit A, p. 24. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (February 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members. *Id.* Groups with an SDV member with a verified one-time or ongoing medical expense(s) of more than \$35 will receive the standard medical deduction (SMD) of \$165. *Id.*, p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify actual expenses instead of receiving the SMD. *Id.* Groups with an SDV member also have an uncapped excess shelter expense. *Id.*

It was not disputed that Petitioner was aged and/or disabled; thus, medical expenses are countable. Petitioner did not allege having any medical, dependent care, or child support expenses. The evidence established that Petitioner's group's non-shelter expenses were \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$198) and countable non-shelter expenses (\$0) from the group's countable wages (\$1,049) and unearned income (\$1,410) results in an adjusted gross income of \$2,261.

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<sup>2</sup> Disregarding the bonuses is favorable for Petitioner because the bonuses appear to be ongoing and representative of future wages.

<sup>3</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

<sup>4</sup> Petitioner repeatedly emphasized that she receives \$1,248 per month in RSDI after paying for a Medicare premium. Because MDHHS relies on gross income, Petitioner's net RSDI is not relevant.

MDHHS credited Petitioner with monthly housing expenses of \$334; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with standard utility credits of \$157 for an electricity obligation and \$31 for a telephone obligation; Petitioner did not allege having additional utility obligations.<sup>5</sup> Adding Petitioner's housing and utility credits results in total shelter expenses of \$522.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter expenses are \$0.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$2,261 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>6</sup> RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance is \$0: the same amount calculated by MDHHS. Thus, MDHHS properly denied Petitioner's application for FAP benefits due to excess income.

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute MSP eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated September 12, 2024, stated that Petitioner was ineligible for MSP benefits beginning October 2024. Exhibit A, pp. 30-31. MDHHS stated the reason for MSP ineligibility was excess income.<sup>7</sup>

MSP is an SSI-related Medicaid category. BEM 165 (July 2024) p. 1. One of four different subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.*, p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* Non-Categorically Eligible Michigan Beneficiaries (NMB) cover a client's premium for full-coverage Medicaid beneficiaries not otherwise eligible for MSP. *Id.*

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<sup>5</sup> See RFT 255 (October 2023) p. 1 for utility credit standards.

<sup>6</sup> FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

<sup>7</sup> MDHHS acknowledged that the notice inaccurately stated that Petitioner was ineligible due to failing to meet basic requirements for MSP. Petitioner is entitled to a proper reason for denial in writing. Rather than ordering MDHHS to issue proper notice and having Petitioner request another hearing, the above analysis will address Petitioner's income eligibility for MSP.

For MSP eligibility, MDHHS is to determine countable income according to the SSI-related MA policies in BEM 165, 500, 501, 502, 503, 504 and 530. *Id.*, p. 8. p. 8. MDHHS is to apply the deductions in BEM 540 (for children) and 541 (for adults) to determine a client's net income for MSP. *Id.*

For SSI-related MA benefits, MDHHS adds biweekly gross wages to determine monthly income. Adding Petitioner's biweekly gross wages of \$693 and \$528 from August 2024 results in monthly income of \$1,228. MDHHS applies a \$65 + 50% disregard for wages which results in countable monthly wages of \$581 (dropping cents).

MDHHS applies a \$20 disregard for unearned income. Subtracting \$20 from Petitioner's RSDI of \$1,410 results in countable income of \$1,390. Adding Petitioner's countable wages and unearned income results in a total countable income of \$1,971.

Income eligibility exists for MSP when net income is within the limits in RFT 242 or 247. *Id.*, p. 8. The highest income limit for any MSP category for a group size of 1 person is \$1,714.25. RFT 242 (April 2024) p. 1. Petitioner's group's countable income exceeds the highest income limit for MSP eligibility. Thus, MDHHS properly denied Petitioner's MSP eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP and MSP benefits dated [REDACTED] 2024. The actions of MDHHS are **AFFIRMED**.

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**Christian Gardocki**

Administrative Law Judge

