



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: January 17, 2025  
MOAHR Docket No.: 24-012090  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 by telephone commenced on December 11, 2024 and was completed on January 8, 2025. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Nicole Taylor, Assistance Payments Supervisor, and Jamaya Honeycutt, Assistance Payments Worker.

The Department's 40-page hearing packet was admitted into evidence as Exhibit A. Petitioner's 19-page document was admitted into evidence as Exhibit 1. Petitioner's 143-page document was not admitted into evidence because the Department did not receive a 143-page document from Petitioner.

Petitioner submitted several additional documents to the Michigan Office of Administrative Hearings and Rules (MOAHR) following the hearing and those documents were not reviewed or considered as they were ex parte communications.

### **ISSUE**

Did the Department properly deny Petitioner Food Assistance Program (FAP) benefits effective June 20, 2024 ongoing?

Did the Department properly deny Petitioner Medicaid (MA) coverage effective December 1, 2024 ongoing?

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) effective September 1, 2024 ongoing?

### **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, MA and MSP, and cash assistance (FIP) from Petitioner. Petitioner reported that her household included herself, her ■ year old son, ■■■■ (MR), who was temporarily absent, and her ■ year old son, ■■■■ (DS). (Exhibit A, pp. 32 – 40).
2. Petitioner is ■ years old, single, disabled, and a Medicare recipient. (Exhibit A, pp. 30 – 40).
3. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) income of \$2,668 per month and has no other income. (Exhibit A, pp. 30 – 31).
4. On October 3, 2024, a hearing was held by the undersigned Administrative Law Judge (ALJ) in MOAHR Case No. 24-008988 regarding eligibility determinations the Department made as to Petitioner's ■■■■ 2024 application. During the October 3, 2024 hearing, Petitioner reported MR was in her household and no longer absent.
5. On October 11, 2024, a decision was issued in MOAHR Case No. 24-008988 and the Department was ordered to:
  - a. Redetermine Petitioner's FAP eligibility for June 19, 2024 ongoing,
  - b. Redetermine Petitioner's MA eligibility for June 2024 ongoing, and
  - c. Redetermine Petitioner's MPS eligibility for August 2024 ongoing.(MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024).
6. On October 14, 2024, the Department sent Petitioner a Verification Checklist (VCL) for FAP that requested Petitioner provide the following documents for each household member:
  - a. A completed Verification of Employment Income (DHS 38),
  - b. Proof of military allotment,
  - c. Proof of RSDI/Supplemental Security Income (SSI),
  - d. Proof of Veteran's Benefits, and
  - e. Proof of sick pay, Workers Compensation, or disability benefits.

The Department included a DHS 38 for MR with the VCL. The Department requested the verifications be returned by October 24, 2024. (Exhibit A, pp. 10 – 16).

7. On October 16, 2024, the Department sent Petitioner a second VCL for FAP that requested Petitioner provide verification of “employment unknown” to the Department by October 28, 2024. (Exhibit A, pp. 19 – 20).
8. On October 17, 2024, the Department sent Petitioner a VCL for MA that requested Petitioner provide verification of “employment unknown” to the Department by October 28, 2024. (Exhibit A, pp. 17 – 18).
9. On October 29, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that denied Petitioner FAP benefits effective June 20, 2024 ongoing due to a) excess net income, and b) failure to provide verification of employment income for Petitioner. (Exhibit A, pp. 21 – 25).
10. On October 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that denied Petitioner:
  - a. MA effective December 1, 2024 ongoing because 1) she is enrolled in Medicare, and 2) she is not over 65, blind, or disabled, and
  - b. MSP effective September 1, 2024 ongoing because she “does not meet basic criteria”.(Exhibit A, pp. 26 – 29).
11. On October 30, 2024, the Department received a request for hearing from Petitioner disputing the Department’s denial of Petitioner’s request for FAP and MA. (Exhibit A, pp. 3 – 4).

### **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 the Department’s denial of Petitioner for FAP, MA, and MSP. The Department denied Petitioner FAP effective June 20, 2024 due to a) excess net income, and b) failure to return verification of employment for herself. The Department denied Petitioner MA effective December 1, 2024 because it found she is enrolled in Medicare and not over 65, blind, or disabled. The Department denied Petitioner MSP effective September 1, 2024 because she does not meet basic criteria for MSP.

As a preliminary matter, Petitioner's request for the instant hearing was submitted in response to actions taken by the Department following a Decision and Order dated October 11, 2024 by the undersigned ALJ in MOAHR Case No. 24-008988, in which the Department was ordered to redetermine Petitioner's eligibility for FAP, MA, and MSP effective on various dates.

### **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 Petitioner for FAP, specifically disputing the Department's failure to consider Petitioner's medical expense of \$100 per month for mental health and a mortgage lien of \$375 per month. The Department denied Petitioner FAP effective June 20, 2024 due to a) excess net income, and b) failure to return verification of employment for herself.

When an individual applies for FAP benefits, the Department is responsible for determining the individual's eligibility. BAM 105 (October 2023), pp. 17 – 18. As part of the application process, the Department must complete an interview of the applicant and verify all non-excluded income of the applicant and members of the FAP group. BAM 115, pp. 17 – 19; BEM 500 (April 2022), pp. 13; see also BAM 130 (May 2024), p. 1. To obtain verification, the Department must tell the client what verification is required, how to obtain it and the due date. BAM 130, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help, and if neither the client nor the local office can obtain verification despite a reasonable effort, the Department must use the best available information. BAM 130, p. 3.

During the hearing on October 3, 2024 in MOAHR Case No. 24-008988, Petitioner testified that MR was in her household, no longer absent, and had income. Based on several factors, the Department was ordered to redetermine Petitioner's eligibility for FAP effective June 19, 2024 ongoing. (MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024). Consistent with the Order and Department policy, the Department sent Petitioner VCLs for FAP on October 14, 2024 and October 16, 2024 that requested:

- a. A completed Verification of Employment Income (DHS 38), and included a DHS 38 for MR,
- b. Proof of military allotment,
- c. Proof of RSDI/Supplemental Security Income (SSI),

- d. Proof of Veteran's Benefits,
- e. Proof of sick pay, Workers Compensation, or disability benefits, and
- f. Verification of "employment unknown".

There was no evidence that Petitioner returned any of the requested verifications by the October 24, 2024 or October 28, 2024 due dates and the Department issued a NOCA on October 29, 2024 that denied Petitioner FAP.

During the instant hearing, Petitioner testified that MR was not in the household and never lived in the household. However, Petitioner's testimony conflicted with her testimony in the prior case, the Department testified that Petitioner did not report any changes since her [REDACTED] [REDACTED] 2024 application, and there was no evidence she did. Therefore, the Department properly requested verifications of MR's income, and it was Petitioner's responsibility to provide the verifications or report to the Department that he was no longer in her household. BAM 105, pp. 7, 10 – 11. Therefore, although the Department testified that the NOCA was inaccurate when it identified the missing verification as attributed to Petitioner and that it should have been attributed to MR, because Petitioner did not return any of the requested verifications by the due dates or report that MR was no longer in her household, the Department properly denied Petitioner's application for FAP effective [REDACTED] [REDACTED] 2024 ongoing.

Although the Department must consider certain expenses to determine a client's FAP eligibility, the Department's determination begins with income and failure to provide verification prevents the Department's evaluation from proceeding. Petitioner may reapply for FAP benefits at any time if she chooses to do so.

### **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 denial of Petitioner for MA, specifically the Department's conclusion that she is not disabled. The HCCDN stated Petitioner was denied MA effective December 1, 2024 because it found she is enrolled in Medicare and not over 65, blind, or disabled.

Although the HCCDN introduced into evidence stated Petitioner was denied MA effective December 1, 2024 because she is not disabled, among other reasons, the Department testified that Petitioner was denied MA because she is eligible for coverage under a different Department case number. The Department initially testified that

Petitioner was also denied MA in that case for Group 2 SSI-related (G2S) MA, effective December 1, 2024 ongoing because she has two cases with the Department, and then testified that approval was pending for verification of assets but that Petitioner had not provided the requested asset verification. However, there was no evidence offered in support of the Department's testimony.

Additionally, the Department is required to implement a Decision and Order within 10 calendar days of the mailing date on the hearing decision (BAM 600 (June 2024), p. 42) and there was no evidence that the Department redetermined Petitioner's MA eligibility effective June 1, 2024 ongoing, as previously ordered in MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024. It is also noted that there was no evidence Petitioner submitted an application for MA more recently than [REDACTED] [REDACTED] 2024 to support the Department's determination of Petitioner's MA eligibility effective December 1, 2024.

Based on the totality of the foregoing, the Department failed to establish that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA.

### **MSP**

Petitioner requested a hearing to dispute the Department's denial of Petitioner for MSP. The Department denied Petitioner MSP effective September 1, 2024 because she does not meet basic criteria for MSP.

MSP is an SSI-related MA program that pays for certain Medicare expenses. BEM 165 (June 2024), p. 1. Individuals who are entitled to Medicare Part A and B but have income in excess of the limits for the MSP categories of Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), or QI Additional Low-Income Medicare Beneficiaries (ALMB), such as Petitioner, may be eligible for Non-Categorically Eligible Michigan Beneficiaries (NMB) if they have full coverage Medicaid. BEM 165, p. 1.

Here, it was previously determined that Petitioner was not eligible for MSP – ALMB, which has the highest income limit for MSP (RFT 242 (April 2024)), and the Department was ordered to redetermine Petitioner's eligibility for MA effective June 2024 ongoing in order to determine if Petitioner was eligible for MSP – NMB effective August 2024. (MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024). The evidence established that Petitioner's income did not decrease. Therefore, for the reasons set forth in MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024, the only MPS category Petitioner may have been eligible for was MSP – NMB.

In this case, the evidence established that the Department determined Petitioner did not meet the basic criteria for MSP effective September 1, 2024 ongoing. However, there was no evidence Petitioner submitted an application for MSP more recently than [REDACTED] [REDACTED] 2024 to support the Department's determination of Petitioner's MSP eligibility effective September 1, 2024, and because the Department did not establish that it redetermined Petitioner's MA eligibility as previously ordered, it was unable to properly

determine Petitioner's eligibility for MSP – NMB. Additionally, there was no evidence that the Department redetermined Petitioner's MSP eligibility effective August 1, 2024 ongoing, as previously ordered. (MOAHR Case No. 24-008988, Decision and Order dated October 11, 2024).

Based on the totality of the foregoing, the Department failed to establish that it acted in accordance with Department policy when it determined Petitioner's eligibility for MSP.

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 denied Petitioner's application for FAP for failure to provide required verifications, but did not act in accordance with Department policy when it failed to redetermine Petitioner's eligibility for MA effective June 2024 ongoing and MSP effective August 2024 ongoing.

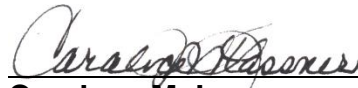
### **DECISION AND ORDER**

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

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 eligibility for MA for June 2024 ongoing in all Department cases regarding Petitioner;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive for June 2024 ongoing;
3. Redetermine Petitioner's eligibility for MSP for August 2024 ongoing;
4. If eligible, provide Petitioner with the most beneficial MSP coverage she is eligible to receive for August 2024 ongoing; and
5. Notify Petitioner of its decision in writing.

CML/nr

  
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**Caralyce M. Lassner**  
Administrative Law Judge

