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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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██████████, MI ██████████

Date Mailed: December 11, 2024
MOAHR Docket No.: 24-012415
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 5, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Deslyn Griffin, specialist, and Markita Mobley, supervisor.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's 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. On ██████████ ██████████ 2024, Petitioner applied for FAP and MA benefits and reported a household including a minor child. No persons in the household were reported to be over the age of 60 years, disabled, or disabled veterans. Petitioner also reported \$██████████ in ongoing monthly income from ownership of a Limited Liability Company (LLC) performing hairdressing. Petitioner additionally reported receipt of ongoing self-employment income through ██████████ ██████████

2. As of September 2024, Petitioner was 21-65 years old, not disabled, not pregnant, and a caretaker to a minor child.
3. As of September 2024, Petitioner was a tax filer with one dependent.
4. As of September 2024, Petitioner had no day care or child support expenses.
5. As of September 2024, Petitioner reported to MDHHS a monthly housing obligation of \$378 and a responsibility to pay for heating and/or cooling.
6. On September 30, 2024, Petitioner submitted to MDHHS documents reporting respective gross self-employment income of \$█ \$██████ and \$█ from June through August 2024.
7. On October 24, 2024, MDHHS approved Petitioner for \$46 in FAP benefits beginning October 17, 2024, and \$96 in FAP benefits beginning November 2024.
8. On October 24, 2024, MDHHS determined Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,391 beginning November 2024.
9. On October 29, 2024, Petitioner requested a hearing to dispute the determinations of FAP and MA benefits. Petitioner also sought to have a different specialist assigned to her case.

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. FAP 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 FAP eligibility. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on September 16, 2024. Exhibit E, pp. 1-15. A Notice of Case Action dated October 24, 2024, stated that MDHHS approved Petitioner for \$96 in FAP benefits beginning November 2024.¹ Exhibit C, pp. 1-7.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. A FAP budget listed most budget factors and calculations.²

¹ Petitioner was also approved for \$46 in FAP benefits beginning October 17, 2024. Presumably, MDHHS determined that Petitioner was ineligible for FAP benefits from the application date through October 16, 2024, due to unspecified alleged procedural failings by Petitioner.

² Petitioner received a Budget Summary listing all relevant income and expenses. Exhibit C, p. 2.

Exhibit A, pp. 16-17. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of two people. Petitioner did not dispute the benefit group size.³

Petitioner submitted to MDHHS documents reporting ownership of an LLC with \$[REDACTED] in monthly income. Exhibit A, pp. 13-15. For all programs, MDHHS counts the income a client receives from an LLC as wages, even if the client is the owner; BEM 501 (January 2024) p. 1. For FAP, Petitioner's countable wages are \$[REDACTED]

Petitioner's application also reported receipt of self-employment income. Exhibit E, p. 6. Petitioner claimed to verbally report that self-employment income had stopped, including during an interview. MDHHS testified that Petitioner was interviewed on September 17, 2024, and Petitioner reported ongoing self-employment income. Petitioner's testimony of stopped self-employment income was uncorroborated and conflicted with self-employment documents submitted to MDHHS on September 30, 2024, which included no indication of stopped income. Exhibit A, pp. 7-12. Given the evidence, MDHHS properly counted Petitioner's self-employment income.⁴

Petitioner's self-employment documents reported respective gross self-employment income of \$[REDACTED], \$[REDACTED] and \$[REDACTED] from June through August 2024 resulting in an average income of \$489 (dropping cents). Applying a 50% standard deduction results in countable income of \$244 (dropping cents). BEM 502 (June 2024) p. 2.

Adding Petitioner's countable wages and self-employment results in a total income of \$[REDACTED] MDHHS issues a 20% credit for timely reported employment and self-employment income. Multiplying Petitioner's employment income by 80% results in countable benefit group income of \$1,875 (dropping cents)

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 who has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) 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 their actual expenses instead of receiving the SMD. *Id.* Groups with an SDV member also have an uncapped excess shelter expense. *Id.*

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ MDHHS was advised to document the hearing date as a reporting date to the end of self-employment income.

It was not disputed that Petitioner's group had no SDV members. Thus, medical expenses are not countable. Petitioner acknowledged having no child support or dependent care expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$204 (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 (\$204) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$1,875) results in an adjusted gross income of \$1,671.

MDHHS credited Petitioner with monthly housing expenses of \$378. Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$664. RFT 255 (October 2024) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,042.

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 amount is \$207 (rounding up to nearest dollar).

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 \$1,464 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁶ RFT 260 (October 2024) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for November 2024 is \$96: the same amount calculated by MDHHS. For a prorated benefit beginning October 17, 2024, Petitioner's proper amount for October 2024 would be calculated by multiplying the full month benefit of \$96 by the remaining days in the month (15) and dividing the amount by the days in the month (31). The result is \$46 (dropping cents): the same amount calculated by MDHHS for October 2024. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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 Bridges

⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

⁶ 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.

Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute MA eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated October 24, 2024, stated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,391 beginning November 2024. Exhibit D, pp. 1-5.

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* 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.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.⁷ *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

Petitioner's application for MA benefits reported being 21-65 years of age, not pregnant, not a Medicare recipient, and a caretaker to a minor child. Exhibit E, pp. 1-15. As a non-disabled individual, aged 19-65 years, and a caretaker to minor children, the full-coverage Group 1 MA category with the highest income limit for which Petitioner is eligible is the MAGI category of HMP. MDHHS testified that Petitioner was ineligible for HMP due to excess income.⁸

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.⁹ 42 CFR 435.603(e). For individuals who have been determined financially-

⁷ Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

⁸ As a caretaker to a minor child, Petitioner is potentially eligible to receive MA under the category of Low-Income Family (LIF). LIF has an income limit lower than HMP (see BEM 110). Thus, LIF eligibility need not be considered if Petitioner is not eligible for HMP due to excess income unless Petitioner received recent Family Independence Program (FIP) benefits. The evidence did not indicate recent issuances of FIP benefits.

⁹ Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.¹⁰

Modified adjusted gross income can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.¹¹ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.¹²

Group composition for MAGI-related categories follows tax filer and tax dependent rules. BEM 211 (October 2023) p. 1. The household for a tax filer, who is not claimed as a tax dependent, consists of: the tax filer, the tax filer's spouse, and tax dependents. *Id.*, p. 2. Petitioner was a tax filer who resided with a tax dependent child. Petitioner's group size is two persons.

For all programs, MDHHS counts the income a client receives from an LLC as wages, even if the client is the owner; BEM 501 (January 2024) p. 1. Petitioner's countable wages are \$2,100 for MA under a MAGI category.

For self-employment income for MAGI, MDHHS uses adjusted gross income as declared on the federal tax return. BEM 502 (June 2024) p. 3. It was not disputed that Petitioner's tax documents listed an adjusted gross income of \$11,696. Dividing the amount by 12 results in countable self-employment income of \$974 (dropping cents). Adding Petitioner's countable wages and self-employment income results in monthly income of \$ [REDACTED] (\$36,888 annually). There was no evidence of disregards to income.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014) p. 1. Also, MDHHS applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of the FPL. The 2024 federal poverty level for a 2-person group residing in Michigan is \$20,440.00.¹³ Multiplying the FPL by 1.38 results in an income limit of \$28,207.20. Petitioner's benefit group's income exceeded the HMP income limit. Given the evidence, MDHHS properly determined Petitioner to be ineligible for Group 1 MA categories.

Though Petitioner is ineligible for unlimited-coverage Group 1 categories, Petitioner may still be eligible for Group 2 MA categories. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible

¹⁰ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

¹¹ <https://www.investopedia.com/terms/a/agi.asp>

¹² *Id.*

¹³ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

because incurred medical expenses are used when determining eligibility. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

As a caretaker to a minor child, Petitioner is potentially eligible to receive Medicaid subject to a deductible under G2C. G2C is a Non-Magi MA category. BEM 105 (January 2024) p. 5. BEM 536 outlines the following procedure for determining a client's prorated income for purposes of G2C eligibility:

- Step 1 Determine countable employment income using BEM 500, 530, and 536.
- Step 2 Deduct \$90 from each member's employment income.
- Step 3 Subtract \$30 + 1/3 of a group member's employment income if the person received FIP or LIF benefits in any one of the four previous months.
- Step 4 Subtract \$200 from any remaining employment income if member has dependent care expenses.
- Step 5 Determine countable child support income using BEM 500 and BEM 530.
- Step 6 Subtract \$50 for countable child support income.
- Step 7 Determine countable unearned income using BEM 500 and BEM 530.
- Step 8 Add countable earned and unearned income.
- Step 9 Subtract child support paid by a group member (not to exceed the monthly obligation).
- Step 10 Subtract \$83 if client has court-appointed guardian paid by a group member. The result is the group's total net income.
- Step 11 Determine the number of dependents. A spouse and children under 18 are dependents.
- Step 12 Add 2.9 to the number of dependents to determine the prorate divisor.
- Step 13 Divide the prorated divisor into each group member's income to determine each member's prorated share of income.
- Steps 14-16 Applicable for non-parent caretakers only.

The adult's net income for purposes of G2C is calculated by adding the following:

- 2.9 x adult's prorated income (if adult has dependents)
- 3.9 x spouse's prorated income
- Prorated share of adult's income

As discussed above, Petitioner's monthly wages are \$[REDACTED]. Petitioner's self-employment income for a non-MAGI program is \$[REDACTED]. Applying a 25% reduction results in self-employment income of \$[REDACTED]. Adding the income results in a total income of \$2,466. Subtracting the \$90 disregard results in countable income of \$[REDACTED]. Dividing by 3.9 (prorate divisor of 2.9 + 1 dependent) results in a pro-rated income of \$609 (dropping cents). There was no evidence that Petitioner recently received LIF, had day care expenses, or paid dependent care expenses. Because Petitioner was unmarried, the prorated income is multiplied by 2.9 resulting in \$1,766 in countable net income.

¹⁴ SSI-Related MA self-employment deductions are limited to the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502 (June 2024) p. 3.

Subtractions to income are allowed only for insurance premiums, remedial services, and increases in Social Security Administration benefits (for January-March only). No subtractions were applicable to Petitioner's budget.

A client's deductible is calculated by subtracting the protected income level (PIL) from the group's net income. A PIL is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013), p. 1. Subtracting the PIL from Petitioner's net income of \$1,766 results in a monthly deductible of \$1,391; MDHHS calculated the same deductible for Petitioner beginning November 2024. Exhibit B, p. 1. Given the evidence, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner lastly requested a hearing to have a different MDHHS specialist assigned to her case. Exhibit A, pp. 3-5. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) that an opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to consider the recipient's choice of service. Notably, a desire for a new worker is not among the reasons for which a hearing can be granted. Because assignment of a new worker is outside the jurisdiction of administrative hearings, Petitioner's request for a new MDHHS worker is properly dismissed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Medicaid subject to a \$1,391 monthly deductible beginning November 2024. MDHHS also properly determined Petitioner to be eligible for \$46 in FAP benefits for October 2024 and \$96 in FAP benefits beginning November 2024. The actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds there is no administrative hearing jurisdiction to assign Petitioner a new specialist. Concerning Petitioner's request for a new specialist, Petitioner's hearing request is properly **DISMISSED**.

CG/nr



Christian Gardocki
Administrative Law Judge

