



GRETCHEN WHITMER  
GOVERNOR

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

Date Mailed: January 28, 2025  
MOAHR Docket No.: 24-013755  
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 teleconference on January 22, 2025 and the parties participated jointly by Microsoft Teams from the Michigan Department of Health and Human Services (Department) local office. Petitioner appeared and represented herself. The Department was represented by Lori Turner, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's Medicaid (MA) eligibility effective January 1, 2025 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. Petitioner is ██████ years of age, not married, has no dependent children, and does not receive Medicare.
2. On ██████████ ██████ 2024, the Department received an application for FAP from Petitioner. Petitioner reported a housing expense of \$250 per month that includes her heat and electric, a telephone expense, and no internet expense.

3. Petitioner's sole sources of income are adult home help income and unemployment compensation. (Exhibit A, pp. 11 – 14).
4. In October 2024, Petitioner received \$383.98 in adult home help income and \$969 in unemployment compensation. (Exhibit A, pp. 13 – 14).
5. From November 1, 2024 through November 19, 2024, Petitioner received \$451.81 in adult home help income and \$1,264 in unemployment compensation. (Exhibit A, pp. 12 – 14).
6. On November 19, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for \$0 FAP benefits for the period of October 22, 2024 through October 31, 2024, and \$23 per month effective November 1, 2024 ongoing for a one-person FAP group. The Department determined Petitioner's ongoing FAP benefits based on \$451 in earned income and \$1,556 in unearned income. (Exhibit A, pp. 23 – 24).
7. On November 19, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved Petitioner for Plan First Family Planning (PFFP) effective January 1, 2025 ongoing. (Exhibit A, pp. 17).
8. On December 13, 2024, the Department received a request for hearing from Petitioner disputing the Department's calculation of her income, amount of Petitioner's FAP benefits, and Petitioner's MA coverage. (Exhibit A, pp. 3 – 6).

### **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 amount of her monthly FAP benefits and type of MA coverage. The Department approved Petitioner for \$23 per month in FAP benefits and PFFP MA.

### **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 amount of her FAP benefit. The Department approved Petitioner for FAP benefits of \$23 per month for a one-person FAP group effective November 1, 2024.

To determine whether the Department properly calculated Petitioner's income for purposes of FAP, all countable earned and unearned income available to the Petitioner must be included. BEM 500 (April 2022), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505 (October 2023), p. 1. Wages from employment are earned income. BEM 501 (January 2024), pp. 6 – 7. For purposes of FAP, unemployment compensation is unearned income and the Department must count the gross amounts. BEM 503 (April 2024), pp. 38. 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 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 and for bi-weekly income the average of the bi-weekly amount is multiplied by 2.15. BEM 505, p. 8.

In this case, although the budget summary on the NOCA showed \$451 in earned income and \$1,556 in unearned income, the Department introduced a FAP net income budget at the hearing which showed \$450 in earned income and \$1,311 in unearned income. (Exhibit A, pp. 21, 23 – 24). Petitioner did not dispute the Department's calculation of her earned income. Although it was unclear how the Department initially determined Petitioner had \$1,556 in unearned income, during the hearing the Department testified that Petitioner's unearned income was calculated based on her receipt of \$610 bi-weekly in unemployment compensation. The standard monthly amount of income based on \$610 bi-weekly is \$1,311. Therefore, the Department properly determined Petitioner's correct unearned income amount of \$1,311 and Petitioner's total earned and unearned income was \$1,761.

Once countable income is calculated, the Department must determine which deductions are available to the Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is 60 years old, she is considered a senior/disabled/veteran (SDV) household. BEM 550 (October 2024), p. 1. Households with SDV members and earned and unearned income may be eligible for the following deductions:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (October 2024) p. 1; BEM 556 (October 2024), pp. 3 – 6.

The evidence established that Petitioner received a \$90 earned income deduction and a \$204 standard deduction from her countable income based on her one-person FAP group size. RFT 255 (October 2024). The Department did not include a deduction for medical expenses, and although Petitioner testified that she reported a medical bill to the Department for an urgent care visit, there was no evidence that Petitioner verified the bill or otherwise in support of her testimony. The Department testified, and Petitioner confirmed, that she did not have any dependent care expenses or court ordered child support expenses and therefore, it did not include a deduction for either of those expenses.

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 Petitioner's gross income of \$1,761, and the Department's testimony that it deducted the 20% earned income deduction of \$90 and the standard deduction of \$204, Petitioner's AGI was \$1,467.

To complete the excess shelter deduction calculation, the Department reviewed Petitioner's housing and utility expenses. The Department testified, and Petitioner did not dispute, that Petitioner had a housing expense of \$250 per month, which included her heat and other utility expenses, and a telephone expense. When a FAP group has a telephone expense, it is entitled to a standard \$30 amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17; RFT 255. The Department properly budgeted Petitioner's housing expense and used the telephone standard amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 22).

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, pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$250 and the telephone standard of \$30 was \$280. When 50% of Petitioner's \$1,467 AGI, in the amount of \$733, is subtracted from the total shelter amount of \$280, the result is \$0 and Petitioner is ineligible for an excess shelter deduction. The Department's calculations were made consistent with policy. Therefore, Petitioner's net income remained \$1,467.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table found in RFT 260. Based on Petitioner's one-person FAP group size and net income of \$1,467, the Department properly determined Petitioner's monthly benefit amount of \$23 for November 2024 ongoing. RFT 260 (October 2024), p. 21.

**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 her MA eligibility. The Department approved Petitioner for PFFP effective October 1, 2024 ongoing.

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 Plan First Family Planning (PFFP), which is a limited coverage MA category. BEM 124 (July 2023), p. 1.

Here, Petitioner is ■ years old, has no dependent children, and is not disabled or receiving Medicare. Therefore, she is potentially eligible for under full-coverage HMP and/or PFFP MA coverage only. HMP and PFFP are Modified Adjusted Gross Income (MAGI)-related MA programs. Because HMP offers full MA coverage, it is a more beneficial coverage for Petitioner than PFFP.

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, and a single individual, such as

Petitioner, is a group of one. BEM 211 (October 2023), pp. 1 – 2. Additionally, for MAGI-related plans, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible, and increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500 (April 2022), p. 5.

For 2024, the annual FPL for a household size of one was \$15,060. 89 FR 2961 (January 2024). The HMP income limit, 133% of the FPL, was \$20,029.80 annually, or \$1,669.15 per month. 5% of the FPL of \$15,060 was \$753. Therefore, the total income limit, with the disregard, was \$20,782.80, or \$1,731.90 per month.

Beginning in January 2025, the annual FPL for a household size of one increased to \$15,650, and the 5% disregard increased to \$783. (<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. Last accessed January 24, 2025). Based on the increased FPL, the HMP income limit, increased to \$20,814.50 annually, or \$1,734.54 per month. With the 5% disregard, the total income limit for HMP, is \$21,597, or \$1,799.75 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); 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, from the client's tax return are added back to the client's adjusted gross income (AGI) to determine MAGI income. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The evidence established, and Petitioner did not dispute, that the Department properly budgeted \$450 per month for Petitioner's earned income. (Exhibit A, pp. 10, 15). However, the Department introduced two documents at the hearing that reflected that it budgeted \$1,220 in unearned income for MA on the unearned income budget (UIB), and \$1,317 on the MAGI eligibility determination (MED). (Exhibit A, pp. 10, 16). The Department testified that for purposes of MA, an individual's bi-weekly income is multiplied by two, but was unable to clearly explain how it determined two different calculations, or how it calculated the \$1,317 on the MED. The Department testified Petitioner's eligibility was based on the MED and it determined Petitioner was ineligible for HMP.

However, the evidence established that Petitioner had currently monthly income from unemployment as follows:

- The month of October 2024 of \$969, and
- From November 1, 2024 through November 19, 2024, the date on which the Department issued its determination, of \$1,264.

Neither a review of the evidence or the Department's testimony clearly established how the Department calculated \$1,317 based on MAGI rules for determining current monthly income. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner had \$1,317 in current monthly unearned income when it issued the HCCDN on November 19, 2024.

The evidence also established that the Department determined that Petitioner's unearned income decreased for December 2024 and January 2025 (Exhibit A, p. 16) and there was no evidence that the Department redetermined Petitioner's eligibility for MA effective January 1, 2025 ongoing prior to the hearing.

Additionally, because determination of eligibility for HMP is based on the FPL and the FPL increased in January 2025, Petitioner's total MAGI-income, as calculated by the Department, is less than the total income limit for HMP with the disregard for 2025.

Therefore, for each of the foregoing reasons, the Department failed to establish that it properly determined Petitioner was ineligible for HMP effective January 1, 2025 ongoing.

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's FAP benefit amount effective November 1, 2024 ongoing, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's MAGI-income and determined Petitioner was ineligible for HMP effective January 1, 2025 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.

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 January 1, 2025 ongoing based on a calculation of her income in accordance with MAGI methodology;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive for January 2025 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr

  
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**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 :**

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