



Date Mailed: February 26, 2025

Docket No.: 24-038251

Case No.: [REDACTED]

Petitioner: [REDACTED]

«RECIP\_FULL\_NAME»

«RECIP\_ADD0»

«RECIP\_ADD1»

«RECIP\_ADD2»

«RECIP\_CITY», «RECIP\_SPCODE»

«RECIP\_POSTAL»

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

### **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 February 19, 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 himself. The Department was represented by Lori Turner, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner Food Assistance Program (FAP) benefits effective December 4, 2024 ongoing due to excess income?

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

Did the Department properly determine [REDACTED] (Son) 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:

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1. On [REDACTED], 2024, the Department received an application for assistance from Petitioner for FAP benefits and MA coverage for himself, his wife, [REDACTED] (Spouse), their minor daughter, [REDACTED] (Daughter), and [REDACTED] year old Son. Petitioner reported that he is disabled, Spouse is employed an average of 40 hours per week and paid bi-weekly, and Son is employed an average of 7 hours per week and paid weekly. (Exhibit A, pp. 14 – 23).
  2. Petitioner is over [REDACTED] years old and a Medicare recipient, married to Spouse, and has two dependent children. (Exhibit A, pp. 14 – 23).
  3. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) income of \$[REDACTED] per month for himself, and Daughter receives RSDI of \$[REDACTED] per month based on Petitioner's disability status.
  4. On December 19, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that denied Petitioner FAP benefits effective December 4, 2024 ongoing due to excess net income. The NOCA also stated that Son was excluded from the FAP group as an ineligible student. The NOCA did not reflect the Department's determination of the FAP group's income. (Exhibit A, pp. 10 – 11).
  5. On December 19, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) which notified Petitioner that he was approved for Medicare Savings Program (MSP) effective May 1, 2024 ongoing, but denied for MA effective March 1, 2024 ongoing because he was not a caretaker of a minor child in his home or disabled, among other things. The HCCDN did not include approval or denial of MA for Spouse, Son, or Daughter. (Exhibit A, pp. 6 – 7).
  6. Spouse and Daughter have been approved for full coverage MA since May 1, 2024. (Exhibit A, pp. 31 – 33, 37 – 38).
  7. Son has been approved for Plan First Family Planning (PFFP) since May 1, 2024. (Exhibit A, pp. 34 – 36).
  8. On December 27, 2024, the Department received a request for hearing from Petitioner disputing the denial of FAP and MA benefits. (Exhibit A, pp. 3 – 5).

### **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 FAP benefits and MA coverage. The Department denied Petitioner FAP benefits due to excess income

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and excluded Son from the FAP group as an ineligible student. Since May 1, 2024, Spouse and Daughter have been approved for full coverage MA, and Son has been approved for PFFP. On December 19, 2024, the Department issued a HCCDN that approved Petitioner for MSP effective May 1, 2024 ongoing, but denied Petitioner MA coverage effective March 1, 2024 ongoing.

### **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 FAP benefits. The Department denied Petitioner FAP benefits due to excess income and excluded Son from the FAP group as an ineligible student.

Each time the Department evaluates eligibility of a person and household for FAP benefits, it must determine who must be included in the FAP group. BEM 212 (October 2024), p. 1. People who live together and purchase and prepare food together must be included in the same group. BEM 212, p. 1. Additionally, parents and their children under the age of 22 who reside together must be included in the same group. BEM 212, p. 1. However, a person in student status who does not meet the criteria set forth in BEM 245 is deemed an ineligible student and is not included in the FAP group. BEM 212, p. 9.

For purposes of FAP, a client such as Son is in student status if they are age 18 – 49 and enrolled half-time or more in college. BEM 245 (July 2023), pp. 3 – 4. In order for Son to be eligible for FAP benefits while in student status, he must meet at least one of the criteria listed in the student status policy, such as maintaining employment for an average of 20 hours per week, be enrolled in the Perkins program, or be working under a state or federally-funded work study program, among other things. BEM 245, pp. 3 – 6. Here, the Department testified, and Petitioner confirmed, that Son is a full-time college student and does not work, does not receive financial assistance through the Perkins Loan or a similar qualifying program, or work under a work study program. Therefore, the Department properly determined Son is an ineligible student and excluded him from the FAP group, and determined Petitioner had a FAP group of three.

Once the Department has determined who must be included in the FAP group, it determines a client's eligibility for program benefits based on the actual income and/or prospective income of the FAP group and must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (October 2024), pp. 30 – 32. Wages from employment are earned income and may be

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prospected. BEM 501 (January 2024), pp. 6 – 7. 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 bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

In this case, there was no dispute that Petitioner and Daughter receive RSDI income of \$[REDACTED] and \$[REDACTED] per month respectively and that Spouse has earnings from employment. The Department testified that it received paystubs for Spouse that reflected that Spouse had gross earnings of \$[REDACTED] on November 15, 2024, and \$[REDACTED] on November 29, 2024. (Exhibit A, pp. 24 – 25). The evidence established that Spouse's earnings were consistent with what Petitioner reported her earnings to be on the application and that she was paid bi-weekly.

The Department introduced a net income budget at the hearing to show how it concluded that Petitioner was ineligible for FAP due to excess net income. (Exhibit A, pp. 26 – 27). The Department included \$[REDACTED] in unearned RSDI income for Petitioner and Daughter. On the budget, the Department included \$[REDACTED] in earned income for Petitioner and although the Department testified that the budgeted earned income was determined based on Spouse's bi-weekly wages, a review of the evidence establishes that the amount budgeted is an understatement of Spouse's income. However, a correction of Spouse's earned income would not result in a more favorable determination regarding Petitioner's eligibility.

Therefore, while the evidence established that Spouse's actual earned income was higher than budgeted, the FAP group's net income budget was considered based on unearned income of \$[REDACTED] and earned income of \$[REDACTED], for total income of \$[REDACTED]. 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 over [REDACTED] years of age he is considered a senior/disabled/veteran (SDV) household. BEM 550, 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.

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First, Spouse had gross earned income totaling \$[REDACTED] and therefore was entitled to 20% reduction of the earned income amount. BEM 550, p. 1. This results in a deduction of \$685. Next, all groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. As discussed previously, Petitioner had a three-person FAP group and groups of one to three receive a standard deduction of \$204 (RFT 255 (October 2024)), which the Department properly deducted.

Petitioner did not report any medical expenses or health insurance premiums in excess of \$35, dependent care expenses, or court ordered child support expenses, and therefore, no deduction for those expenses are reflected on the budget.

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 \$[REDACTED], reduced by the earned income deduction of \$[REDACTED] and the standard deduction of \$204, Petitioner's AGI was \$[REDACTED].

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. There was no dispute that Petitioner's housing expense is comprised of property taxes and homeowner's insurance in the monthly amount of \$286.83, and that he pays for heat and other utilities. (Exhibit A, p. 39). When a FAP group has heating and other utility expenses separate from the housing expense, 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. 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. If the FAP group pays for internet, it is also entitled to a standard deduction for that expense in the amount of \$50, and the Department properly used the internet standard amount when calculating Petitioner's excess shelter deduction. BEM 556, p. 5; RFT 255.

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 \$286.83, the h/u standard of \$664, and the internet standard of \$50, was \$1,001. When 50% of Petitioner's \$[REDACTED] AGI, in the amount of \$[REDACTED], is subtracted from the total shelter amount of \$1,001, Petitioner's excess shelter deduction was \$0. Therefore, Petitioner did not have an excess shelter deduction and his net income remained \$[REDACTED].

The net income limit for a FAP group of three is \$2,152. RFT 250 (October 2024). Therefore, because Petitioner's net income was more than the net income limit for a

FAP group of three, 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 denial of MA for Petitioner and approval of Son for PFFP. Petitioner submitted a new application for MA on [REDACTED] 2024. On December 19, 2024, the Department issued a HCCDN that approved Petitioner for MSP effective May 1, 2024 ongoing, but denied Petitioner MA coverage effective March 1, 2024 ongoing. Son has been approved for PFFP since May 1, 2024.

Whether the Department properly determined an individual's MA eligibility requires consideration of all MA categories. 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, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), 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.

### **Petitioner**

Petitioner is [REDACTED] years old, disabled, has a dependent child, receives RSDI, and has Medicare. Therefore, Petitioner is potentially eligible for AD-Care, Group 2 Caretaker (G2C), Group 2 Aged, Blind, and Disabled (G2S), and/or PFFP. AD-Care and G2S are SSI-related MA programs, with AD-Care providing full coverage while G2S is a Group 2 MA category available to a person who is aged (65 or older), blind, or disabled, and provides MA coverage to individuals after a monthly deductible is met. BEM 166 (April 2017), p. 1. Because AD-Care provides full coverage MA, it is more beneficial to Petitioner than Group 2 coverage. And between G2C and G2S, G2C results in a lower

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monthly deductible amount and is, therefore, a more beneficial MA category for those who may be eligible under either program.

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The AD-Care program is a Group 1, full-coverage, SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. Net income for this program cannot exceed 100% of the Federal Poverty Level (FPL) for the fiscal group size. BEM 163, p. 1. For SSI-related MA purposes, married adults are a fiscal group size of two. BEM 211, p. 8. Because Petitioner is married, he is a fiscal group size of two and to be income eligible for this program, Petitioner's fiscal group's monthly income would have had to be \$1,723.50 or less. RFT 242 (April 2024). As explained previously, Petitioner receives RSDI in the amount of \$[REDACTED] per month and Spouse's gross earning income is \$[REDACTED] bi-weekly. Although, for purposes of SSI-related MA, income is reduced by \$20 to determine the net income (BEM 503 (April 2024), pp. 30 – 31; BEM 541 (January 2024), p. 3; see also BEM 163), the evidence established that Petitioner's fiscal group's countable net income was at least \$[REDACTED], which is more than the \$1,723.50 limit for AD-Care MA. Therefore, Petitioner was not eligible for AD-Care MA.

However, because Petitioner and Spouse's minor child, Daughter, lives in the home, Petitioner may be eligible for G2C, which is the next most beneficial MA coverage available to him based on his circumstances. The Department did not explain whether it considered Petitioner's eligibility for MA under G2C or any other MA program.

Although the Department testified that Petitioner's MA was denied because it had requested verifications from Petitioner on January 31, 2024 that were not returned, there was no evidence regarding the basis or nature of the requested verifications or why verifications requested in January 2024 were necessary when it issued the December 19, 2024 HCCDN. It is also noted that while Petitioner was denied MA for failure to provide verifications, he was approved for MSP, which raised further questions as to the necessity of verifications requested in January 2024.

Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner MA coverage effective March 1, 2024 ongoing because he was not caretaker of a minor child in his home or disabled, among other things.

### **Son**

The Department testified that Son has been approved for PFFP only since May 1, 2024. However, Petitioner applied for MA for Son on the [REDACTED] 2024 application and there was no evidence that the Department redetermined Son's eligibility for MA as a result of the [REDACTED] 2024 application.

Son is [REDACTED] years old and there was no evidence that he is pregnant, receiving Medicare, or has any dependent children. Therefore, Son is potentially eligible for HMP and/or PFFP MA coverage.

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HMP and PFFP are Modified Adjusted Gross Income (MAGI)-related MA programs. While Son may qualify for coverage under either MA program, because HMP offers full coverage, it is a more beneficial coverage for Son 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 federal poverty level (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 submitted an application for assistance, including MA for Son, on [REDACTED] 2024, and reported on his application that Son is a dependent on Petitioner's income tax return. However, the Department did not clearly explain if it processed Petitioner's December application for MA for Son, explain if it considered Son's eligibility for HMP, or present a MAGI budget for Son at the hearing. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy as to Son's MA eligibility as a result of Petitioner's [REDACTED] 2024 application.

### **DECISION AND ORDER**

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. However, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner was ineligible for MA effective March 1, 2024 ongoing and when it failed to consider Son's eligibility for HMP effective December 1, 2024 ongoing.

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 eligibility for MA for March 2024 ongoing;
2. Redetermine Son's eligibility for MA for December 2024 ongoing;
3. If eligible, provide Petitioner with the most beneficial MA coverage he was eligible to receive for March 2024 ongoing;
4. If eligible, provide Son with the most beneficial MA coverage he was eligible to receive for December 2024 ongoing; and
5. Notify Petitioner of its decision in writing.



**CARALYCE M. LASSNER**  
**ADMINISTRATIVE LAW JUDGE**

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**APPEAL RIGHTS:** Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to [MOAHR-BSD-Support@michigan.gov](mailto:MOAHR-BSD-Support@michigan.gov), **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to  
Michigan Office of Administrative Hearings and Rules  
Rehearing/Reconsideration Request  
P.O. Box 30639  
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks.

**Via Electronic Mail:**

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M. Holden  
BSC4

**Via First Class Mail:**

**Petitioner**

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