



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: March 25, 2019
MAHS Docket No.: 18-013714
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, an in-person hearing was held on March 22, 2019, from Detroit, Michigan. The Petitioner was self-represented and appeared with his mother, [REDACTED] as a witness. The Department of Health and Human Services (Department) was represented by Eric Murphy, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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 December 4, 2018, the Department received Petitioner's completed Redetermination showing a Retirement, Survivors and Disability Insurance (RSDI) benefit of \$[REDACTED] a housing expense of \$[REDACTED] and the requirement to pay utilities.
2. Sometime after December 4, 2018, and before December 17, 2018, the Department issued a Notice of Case Action and Health Care Coverage Determination Notice (HCCDN) to Petitioner notifying him that effective January 1,

2019, Petitioner's FAP benefit was reduced to \$[REDACTED] that he was removed from the MA Ad-Care category and placed in the MA Group 2-Aged, Blind Disabled (G2S) category, that he was removed from the Qualified Medicare Beneficiary (QMB) Medicare Savings Program (MSP) category, and finally, that he was placed in the Specified Low-Income Medicare Beneficiary (SLMB) MSP category.

3. On December 17, 2018, the Department received proof of Petitioner's housing expense in addition to his request for hearing disputing the Department's calculation of FAP benefits as well as his MA eligibility.
4. Effective February 1, 2019, the Department increased Petitioner's FAP benefit rate to \$[REDACTED] after corrections were made to his case.
5. Later, the Department issued a third Notice of Case Action to Petitioner informing him that his FAP benefit rate would increase to \$[REDACTED] effective January 1, 2019, after more corrections were made to his case; supplements were issued to Petitioner for January and February 2019.
6. Effective April 1, 2019, Petitioner was removed from the G2S program and placed back in the Ad-Care program after additional review and corrections were made to his case.

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).

Food Assistance Program (FAP)

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. 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 disputed the Department's calculation of his FAP benefit rate and in part because of the numerous changes in his eligibility even after his hearing request, wanted to proceed with the hearing and receive a decision from the undersigned.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), 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 2017), p. 1. Prospective income is income not yet received but expected. *Id.* In prospecting income, the Department is

required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9.

The Department testified and Petitioner agreed that he receives an RSDI benefit of \$[REDACTED] per month. Since his income is received on a monthly basis and he does not receive any other form of income, no further calculation is required to standardize it.

After consideration of income, the Department considers all appropriate deductions and expenses. There was evidence presented that the Petitioner is a Senior, Disabled, or Disabled Veteran. BEM 550. Thus, Petitioner is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction for medical expenses greater than \$35.00.

BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department budgeted \$0.00 for a child support and dependent care expense. Petitioner agrees that he does not have these expenses. The Department also budgeted the standard deduction of \$158.00 for a group size of one in accordance with Department policy. RFT 255 (October 2018), p. 1. Finally, the parties agree that Petitioner has not submitted proof of any medical expenses to the Department; therefore, the Department properly budgeted \$0.00 for his medical expense deduction.

After consideration of all applicable expenses, the Department properly calculated Petitioner's Adjusted Gross Income (AGI) of \$[REDACTED]

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. The Department budgeted and Petitioner agrees that he has a housing expense of \$[REDACTED]. In addition to the rental expense, the Department properly afforded Petitioner the Heat and Utility (H/U) Standard Deduction of \$[REDACTED]. BEM 554, pp. 14-15; RFT 255, p. 1. Once the rental expense and H/U Standard are added together, 50% of Petitioner's AGI is subtracted to achieve Petitioner's Excess Shelter Deduction. BEM 556, p. 5. Petitioner's Excess Shelter amount was \$[REDACTED]. In one or more of the various calculations of Petitioner's FAP benefit rate, the Department applied the Non-SDV Shelter Maximum of \$[REDACTED] to Petitioner's case. BEM 554, p. 1; RFT 255, p. 1. However, as discussed above, Petitioner has been classified as an SDV client; therefore, the maximum does not apply to Petitioner, and he is eligible for the full amount of his calculated excess shelter costs.

Next, the Excess Shelter Deduction (\$██████) is subtracted from Petitioner's AGI (\$██████) to achieve his Net Income of \$██████. Finally, the net income amount is compared against the FAP Issuance Table to determine Petitioner's benefit rate of \$██████ RFT 260 (October 2018), p. 1. While the Department's first several calculations of Petitioner's FAP rate were incorrect, ultimately the Department corrected its errors and issued supplements to Petitioner for the correct amount. Therefore, the Department has acted in accordance with Department policy in determining Petitioner's FAP benefit rate.

Medical Assistance (MA) Program

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 also disputed his MA eligibility because the Department placed him in the G2S program and changed his MSP category to SLMB.

Medicaid is available (i) under Supplemental Security Income (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. BEM 105 (April 2017), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2019) p. 1; MPM, Healthy Michigan Plan, § 1.1.

Petitioner is not under age 19 or pregnant. No evidence was presented that Petitioner was a parent or caretaker of a minor child, or former foster child. Therefore, the programs for each of these groups are inapplicable to the Petitioner. Since Petitioner is a Medicare Recipient and is disabled, he is not eligible for HMP.

In determining the SSI-related MA category Petitioner is eligible to receive, the Department must determine Petitioner's MA fiscal group size and net income. Petitioner has a group size for SSI-related MA purposes of one as there was no evidence presented that Petitioner is married living with a spouse. BEM 211 (January 2016), p. 8. Petitioner's total monthly income is \$██████ as discussed above. However, policy provides that countable RSDI for fiscal group members is the gross amount received for the previous December when the month being tested is January, February, or March. BEM 503 (January 2019), p. 29. Federal law requires the cost-of-

living (COLA) increase received in January be disregarded for these three months. *Id.* In looking at the State Online Query (SOLQ), an interface with the Social Security Administration accessible by the Department to aid it in determining a client's Social Security Benefit and Medicare participation, Petitioner's RSDI benefit received in December 2018 was \$[REDACTED]. Therefore, in determining Petitioner's eligibility for MA benefits in January 2019, his income is considered to be \$[REDACTED]. When the Department applied the COLA exclusion amount for January 2019, the Department was properly considering Petitioner's income.

The Ad-Care program, an SSI-related MA category, requires that net group income cannot exceed one hundred percent of the federal poverty level. BEM 163, pp. 1-2. The 2018 federal poverty level for a one-person household was \$12,140.00, effective until January 11, 2019. <https://aspe.hhs.gov/poverty-guidelines>; <https://aspe.hhs.gov/2018-poverty-guidelines>. The net income limit is established through policy by subtracting \$20.00 from the amount shown in RFT 242 at \$1,031.67 for a group size of one effective April 1, 2018. RFT 242 (April 2018), p. 1. Countable income is calculated by adding the amounts of income actually received/available within the past month. BEM 530 (July 2017), p. 2. A review of the SSI-Related MA budget submitted by the Department shows that the Department properly considered Petitioner's RSDI income. The Department then properly applied the \$20.00 general exclusion. BEM 541 (January 2018), p. 3. No evidence was submitted regarding any Guardianship or Conservatorship expenses. Therefore, Petitioner's net income is \$[REDACTED] which is greater than the net income limit and the federal poverty limit when his net income multiplied by 12. Petitioner is not eligible for the full coverage Ad-Care program.

Since Petitioner has excess income for eligibility under the Ad-Care program, the full coverage SSI-related MA program, an evaluation of Petitioner's eligibility for MA coverage under the Group 2 program follows. Group 2 provides MA coverage with a deductible. BEM 105, p. 1.

The deductible is the amount that the client's net income (less any allowable deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. BEM 544 (July 2016), p. 1. It is based on the client's MA fiscal group size and the county in which the client resides. *Id.* Petitioner resides in Wayne County and has a group size of one; therefore, he is in shelter area IV, and his PIL is \$375.00. RFT 200 (April 2017), p. 3; RFT 240 (December 2013), p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$375.00, Petitioner is eligible for MA assistance under the G2S program with a deductible equal to the amount of income remaining after the appropriate and allowed deductions which are greater than \$375.00.

As discussed above, Petitioner's net income was \$[REDACTED]. In calculating the deductible, allowances are made for health insurance premiums and remedial services. BEM 544, pp. 1-2. No evidence was presented that Petitioner had any remedial service expenses or insurance premiums. Next, the Petitioner's PIL was subtracted from his

countable income to reach a deductible of \$[REDACTED]. The Department properly calculated Petitioner's deductible and determined Petitioner's MA eligibility in the G2S program.

QMB versus the SLMB Medicare Savings Programs

Finally, Petitioner had concerns about his Medicare Savings Program (MSP) coverage, a category of MA coverage. QMB is the full coverage category MSP. BEM 165 (January 2018), p. 1. SLMB is a limited coverage MSP. *Id.* A third category of MSP is the Additional Low-Income Medicare Beneficiary (ALMB). *Id.* QMB pays for Medicare premiums, coinsurances, and deductibles. BEM 165, p. 2. SLMB pays Medicare Part B premiums. *Id.* ALMB pays for Medicare Part B premiums if funding is available. *Id.*

Income determines placement in the programs. BEM 165, p. 1. For QMB, net income cannot exceed 100% of the federal poverty level, the same as Ad-Care. *Id.* SLMB is available for individuals whose income is over 100% of the federal poverty level, but not more than 120% of the federal poverty level. *Id.* Finally, ALMB is available to those whose income exceeds 120% of the federal poverty level, but does not exceed 135%. *Id.*

To determine the countable income for purposes of MSP benefits, the Department relies on the same policies as utilized for Ad-Care and G2S: BEM 500, 501, 502, 503, 504, 530, 540, and 541. BEM 165 (January 2018), p. 8. As discussed above, Petitioner's income is greater than 100% of the federal poverty level. Therefore, he is not eligible for QMB MSP coverage. The SLMB income eligibility range is from \$1011.68 to \$1,214.00. RFT 242, p. 2. Since Petitioner's net income is \$[REDACTED] he qualifies for SLMB, and the Department properly determined his eligibility.

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 eligibility for FAP, MA G2S coverage, and MSP SLMB coverage.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Jeanette Cowens
MDHHS-Wayne-41-Hearings

Petitioner

[REDACTED]
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BSC4
M Holden
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