



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 24, 2020
MOAHR Docket No.: 19-013169
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 on January 22, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Darrell Rich, Assistance Payments Supervisor and Latonya LaShore, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

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 was an ongoing FAP recipient and an MA recipient under the Healthy Michigan Plan (HMP) program.
2. On [REDACTED], 2019, Petitioner completed a redetermination (Exhibit A, pp. 10-17).
3. Petitioner was the sole member of his household.

4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross monthly amount of \$1,609 (Exhibit A, pp. 18-20).
5. Petitioner had assets in the form of a savings account (Exhibit A, p. 31), a checking account (Exhibit A, p. 31), and an Individual Retirement Account (IRA) (Exhibit A, p. 56).
6. On November 15, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that his MA benefit case was closing effective December 1, 2019, as he had excess income under the HMP program (Exhibit A, pp. 21-24).
7. On November 18, 2019, the Department sent Petitioner a Notice of Case Action informing Petitioner that he was approved for FAP benefits in the monthly amount of \$ [REDACTED] effective December 1, 2019, ongoing (Exhibit A, pp. 33-40).
8. On December 12, 2019, the Department sent Petitioner a HCCDN informing him that he was not eligible for MA benefits, as he exceeded the asset limit under the SSI-related MA programs (Exhibit A, pp. 25-26).
9. On December 12, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to his FAP and MA benefit programs.

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).

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 was an ongoing FAP recipient. On [REDACTED], 2019, Petitioner completed a redetermination related to his FAP benefit case. As a result, the Department redetermined Petitioner's FAP eligibility. The Department determined that Petitioner was eligible for a monthly FAP benefit amount of \$ [REDACTED]. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 41-43).

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. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (October 2019), p. 28.

According to the budget provided, the Department included \$1,609 in unearned income. The Department presented Petitioner's State Online Query (SOLQ) report showing Petitioner's gross monthly RSDI benefit amount was \$1,609. Therefore, the Department properly determined Petitioner's standard monthly income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group 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.

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

There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. The Department testified that Petitioner did not have any verified medical expenses. At the hearing, Petitioner testified that he now has private health insurance through the marketplace, for which he pays a monthly premium. Petitioner stated he began paying the premium effective January 1, 2020 and has not yet submitted verification of the expense. As Petitioner incurred the expense after the Department's decision, and he has not yet submitted verification of the expense, the Department acted in accordance with policy when it did not include a medical expense deduction in Petitioner's FAP budget.

In calculating the excess shelter deduction of \$729, the Department stated that it considered Petitioner's verified housing expense of \$935 (Exhibit A, pp. 44-55) and that he was responsible for a monthly heating expense (Exhibit A, pp. 63-66), entitling him to the heat/utility standard of \$518. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$729 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$1,448. Petitioner's adjusted gross income subtracted by the \$729 excess shelter deduction results in a net income of \$719. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$16. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

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.

In this case, Petitioner was an ongoing MA recipient under the HMP program. As a result of the October 2019 redetermination, Petitioner's MA eligibility was reviewed. The Department determined Petitioner was not eligible for MA benefits under any MA category. As a result, the Department closed Petitioner's MA benefit case.

The Department concluded that Petitioner was not eligible for MA benefits under the HMP program because his income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and did not claim any dependents. Therefore, for HMP purposes, he has a household size of one. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2019 for a household with one member is \$17,236.20. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,436.35. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$17,236.20 annually or \$1,436.35 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law.

BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented Petitioner's SOLQ report showing that he receives a gross RSDI benefit amount of \$1,609. Per policy, Petitioner's entire RSDI benefit amount is countable. As Petitioner's RSDI income is above the income limit for his group size, the Department acted in accordance with policy when it determined he was not eligible for MA benefits under the HMP program.

As a disabled person, Petitioner is potentially eligible for MA benefits under the SSI-related MA programs. The Department testified that Petitioner was not eligible for any of the SSI-related MA programs, as his assets exceeded the limit for his group size.

For SSI-Related Medicaid the department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (January 2018), p. 1. Asset detection may include the following sources at financial institutions: checking, savings, and investment accounts, IRAs, treasury notes, certificates of deposit (CDs), annuities and any other asset that may be held or managed by a financial institution. BEM 400, p. 1. All types of assets are considered for SSI-related MA categories. BEM 400, p. 3. The value of a retirement plan is the amount of money the person can withdraw from the plan. BEM 400, p. 27. The Department will deduct any early withdrawal penalties, but not the amount of any taxes due. BEM 400, p. 27. For SSI-related MA categories, the asset limit for a group of one is \$2,000. BEM 400, p. 8.

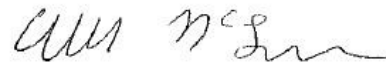
The Department testified that Petitioner had funds in a checking account, savings account and an IRA. The Department highlighted that the value of the IRA alone was

well above the asset limit for SSI-related MA. The Department presented verification showing that the value of the IRA was \$107,500. If the funds were to be withdrawn, the distribution would be subject to a 10% penalty and \$25,669 in state and federal taxes. As stated above, policy only allows the Department to deduct the amount of the penalty, not the taxes. The Department correctly determined that the IRA was countable, and the value was \$96,750. Therefore, Petitioner's assets well exceed the limit for his group size for SSI-related MA. Thus, the Department acted in accordance with policy when it closed Petitioner's MA benefit case.

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's FAP eligibility and closed his MA benefit case. Accordingly, the Department's decisions are **AFFIRMED**.

EM/



Ellen McLemore

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 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 Email:

MDHHS-Macomb-20-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4-Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

