



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]
[REDACTED]

Date Mailed: October 4, 2019
MOAHR Docket No.: 19-009325
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 September 25, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Brandy Guinn, Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly calculate the amount of Petitioner's Medical Assistance (MA) deductible?

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 an ongoing recipient of FAP and MA benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.
3. In processing the redetermination, the Department discovered that it had been improperly budgeting Petitioner's income for her MA eligibility, as Petitioner was previously approved for MA without a monthly deductible.

4. On July 31, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that she was now approved for MA with a monthly deductible of \$662. Petitioner was approved for MA coverage under the Group 2 Caretaker Relatives (G2C) category. (Exhibit A, pp. 12-14)
5. On July 31, 2019, the Department sent Petitioner a Notice of Case Action, advising her that effective August 1, 2019, she was approved for FAP benefits in the monthly amount of [REDACTED]. (Exhibit C)
6. On August 19, 2019, Petitioner requested a hearing disputing the Department's calculation of her FAP benefits and calculation of her monthly deductible.

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.

In this case, Petitioner requested a hearing to dispute the Department's actions with respect to the calculation of her FAP benefits. At the hearing, it was established that Petitioner was previously approved for FAP benefits in the amount of \$[REDACTED] monthly and that effective January 1, 2019, her FAP benefits were decreased to \$[REDACTED]. Petitioner's benefits remained at the \$[REDACTED] monthly amount after the processing of the redetermination. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit D)

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 considers the gross amount of money earned from RSDI/Social Security and retirement pensions in the calculation of unearned income for purposes of FAP budgeting. Family Independence Program (FIP) cash assistance benefits are considered the unearned income of the head of household. BEM 503 (April 2019), pp. 15, 28-29. The budget shows that the Department concluded that Petitioner's household had gross unearned income in the amount of \$1,783, which it testified consisted of \$1,625 in Petitioner's gross monthly RSDI and \$[REDACTED] in FIP benefits. Petitioner confirmed that the gross

income amounts relied upon by the Department were correct. Thus, the unearned income was properly calculated.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (April 2019), p. 1; BEM 556 (April 2018), p. 3.

In this case, Petitioner's group did not have any earned income; thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses; therefore, the budget properly did not include any deduction for dependent care or child support. Petitioner's household is eligible for a medical deduction if she submits verified medical expenses that exceed \$35. The budget shows a medical deduction of \$101 which the Department testified was attributable to a \$135.50 Medicare Part B premium that Petitioner is responsible to pay. Thus, the medical deduction was properly determined.

The Department properly applied a standard deduction of \$158 which was based on Petitioner's confirmed group size of two. RFT 255 (October 2018), p. 1. With respect to the excess shelter deduction of \$63, the Department properly applied the \$543 heat and utility standard and considered Petitioner's responsibility for housing expenses of \$282.35 based on her monthly property taxes in the amount of \$225.88 and home insurance premiums of \$56.47. The Department presented verification of property taxes submitted with Petitioner's redetermination showing an annual amount of \$██████████, which when taken monthly results in a monthly obligation of \$225.88. Verification of home insurance in the annual amount of \$677.63 was provided, which when taken monthly results in an obligation of \$56.47. (Exhibit E). Therefore, the Department properly calculated the excess shelter deduction.

After further review, the Department properly determined Petitioner's net income, took into consideration the appropriate deductions to income and concluded that she was eligible for FAP benefits in the monthly amount of \$██████.

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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (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, which provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 105 (April 2017), p. 1; BEM 137 (January 2019), p. 1. For Group 1 MA categories, which have no deductible, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. Clients may be eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her MA case. Specifically, the Department's determination that she was eligible for MA under the G2C category with a monthly deductible of \$662. The Department testified that prior to the redetermination, it had not been budgeting Petitioner's monthly unearned income from RSDI in determining her MA eligibility and at the time of the review, it discovered that due to a Bridges error, Petitioner was incorrectly approved for MA under a Group 1 category without a deductible. The evidence established that Petitioner's income was in excess of the applicable income limits and she was ineligible for MA under a Group 1 category without a deductible.

After processing the redetermination and considering Petitioner's unearned income, the Department determined that she was eligible for MA under the G2C category based on her status as a caretaker. The Department testified that the G2C category was more beneficial than the Group 2 Aged Blind Disabled category, because her monthly income would be prorated, resulting in a lower monthly deductible under G2C.

Individuals are eligible for G2C MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 needs in BEM 544 and the MA protected income level (PIL), which is based on shelter area and fiscal group size. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 135 (October 2015), p 1,3; BEM 544 (July 2016), p 1-3; BEM 545 (January 2019); RFT 200 (April 2017);RFT 240 (December 2013), p 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. The Department is to use the policies in BEM 500 and BEM 530 to determine each fiscal group member's countable earned income. BEM 211 (July 2019); BEM 536 (July 2019), p. 1.

In determining a person's eligibility and their fiscal group however, the only income that may be considered is the person's own income and the income of the following persons

who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p. 5. Additionally, for the G2C category, an adult's fiscal group is the adult and the adult's spouse. Therefore, with respect to Petitioner's deductible, because she is unmarried, the monthly PIL for her one person fiscal group living in Oakland county is \$408 per month. BEM 211, pp.5-9;RFT 200, p 1; RFT 240, p 1. A multi-step process is then utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if net monthly income is in excess of the applicable \$408 PIL, Petitioner may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds \$408. BEM 545, p 1.

The Department produced a G2-FIP Related (MA) Adult Net Income results budget which was reviewed to determine if the Department properly calculated Petitioner's deductible (Exhibit A, pp. 11). Because Petitioner did not have any earned income, there was no applicable standard work expense and Petitioner was not eligible for the \$30 plus 1/3 disregard or the dependent care deduction. BEM 536, pp. 1-3. There was also no evidence that Petitioner received any child support earnings or that she had a responsibility for child support expenses.

The Department testified that in calculating income for MA purposes, it considered her monthly unearned income from RSDI income of \$1,625, which as referenced above was properly determined. Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorate divisor. BEM 536, pp. 1-5. In this case, because Petitioner was unmarried and had one child under age 18 living in the home, the prorate divisor is 3.9. BEM 536, pp. 3-5. The Department properly considered Petitioner's eligibility for a needs-based deduction of \$135.50 for her Medicare Part B premium.


Upon further review, the Department properly determined that Petitioner had net income of \$1,070.50. Because \$1,070.50 exceeds the \$408 PIL by \$662, the Department properly calculated Petitioner's MA deductible of \$662.

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 that Petitioner was eligible for MA under the G2C category with a monthly deductible.

DECISION AND ORDER

Accordingly, the Department's FAP and MA decisions are **AFFIRMED**.

ZB/tlf



Zainab A. Baydoun
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-Oakland-II-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
M. Holden
D. Sweney
MOAHR

Petitioner – Via First-Class Mail:

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