



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: October 13, 2020  
MOAHR Docket No.: 20-005617  
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 October 8, 2020, from Detroit, Michigan. Petitioner was present with her sister, [REDACTED]. The Department of Health and Human Services (Department) was represented by Desiree Howell, Assistance Payments Worker and April Williams, Assistance Payments Supervisor.

### **ISSUE**

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

Did the Department properly determine Petitioner's Medical Assistance (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:

1. Petitioner was an ongoing FAP recipient.
2. Petitioner was an ongoing MA recipient under the Group-2 SSI-related (G2S) program with a monthly deductible of \$1,065 (Exhibit A, pp. 8-10).
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the monthly gross amount of \$1,604 (Exhibit A, pp. 34-35).
4. Petitioner was the only member of her group.

5. On July 2, 2020, Petitioner submitted verification of her medical expenses (Exhibit A, pp. 12-26).
6. On July 22, 2020, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for FAP benefits in the amount of \$16 per month (Exhibit A, pp. 27-28).
7. On July 22, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she has not met her MA deductible since November 2019 (Exhibit A, pp. 6-7).
8. On August 30, 2020, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 the present case, Petitioner was an ongoing FAP recipient. On July 2, 2020, Petitioner submitted verification of her medical expenses. On July 22, 2020, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for FAP benefits in the amount of \$16 per month. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 29-31).

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. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28.

Per the budget provided, the Department included \$1,604 in unearned income when calculating Petitioner's FAP benefit amount. The Department presented Petitioner's State Online Query (SOLQ) report showing Petitioner had a gross RSDI benefit amount

of \$1,604 per month. Therefore, the Department properly determined Petitioner's household 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 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$161. RFT 255 (January 2020), p. 1. 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 will allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department will allow only the non-reimbursable portion of a medical expense. BEM 554, p. 11. Policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Medical expense changes can be reported and processed during the benefit period, but the expenses must be verified. BEM 554, p. 9.

Per the budget provided, Petitioner was given a \$110 medical expense deduction. The Department testified that it included an ongoing medical expense deduction for Petitioner's monthly \$144.60 Medicare Part B premium. The \$144.60 Medicare Part B premium reduced by the \$35 dollar exclusion is \$110.

At the hearing, Petitioner testified that she has an ongoing medical expense of \$42.40 per month for supplemental insurance coverage. Petitioner stated that she submitted verification of the expense. However, all of the medical expenses submitted by Petitioner were reviewed and there was no evidence that Petitioner submitted verification of the expense. Therefore, the Department properly determined Petitioner's ongoing medical expense deduction.

In calculating the excess shelter deduction of \$1, the Department stated that it considered Petitioner's verified housing expense of \$148.83 (Exhibit A, pp. 36-37) and that she was responsible for a monthly heating expense, entitling her 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 \$1 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 \$1,333. Petitioner's adjusted gross income subtracted by the \$1 excess shelter deduction results in a net income of \$1,332. 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 ongoing FAP benefit amount.

The medical expenses submitted by Petitioner on July 2, 2020, were reviewed. The Department provided testimony as to which bills were included and which bills were excluded due to verification issues. Petitioner received the full FAP benefit amount for her group size during the months of March 2020 through September 2020 due to the COVID-19 pandemic. Petitioner cannot receive a higher benefit amount than the maximum allowed by policy. Therefore, the medical expenses that were budgeted would not have any impact on Petitioner's FAP eligibility during the period of March 2020 through September 2020. As such, the Department properly followed policy when it determined Petitioner's FAP benefit amount during the period of March 2020 through September 2020.

## **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 G2S program with a monthly deductible of \$1,065. On July 2, 2020, Petitioner submitted medical expenses. On July 22, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she did not meet her deductible in any month during the year 2020.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (October 2018), p. 10. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11. Except for transportation, the actual charge(s) minus liable third-party resource payments count as an allowable expense. BEM 545, p. 16. Payments made

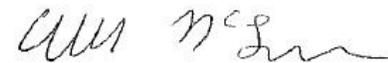
by Medicare are included as third-party resource payments. BEM 545, p. 19. The Department will count allowable expenses incurred in the month in which eligibility is being determined, whether paid or unpaid. BEM 545, p. 16. However, if an expense was reported later than the last day of the third month after it was incurred, it cannot be used in the month it was incurred. BEM 545, p. 11. The expense can only then be used as an old bill, if it meets the qualifications as an old bill. BEM 545, p. 6 and 11. Once the client's medical expenses exceed their excess income (their deductible), the client no longer has liability, meaning they have full-coverage MA benefits for the remainder of the month. BEM 545, pp. 5-6.

At the hearing, the medical expenses submitted by Petitioner were thoroughly reviewed. Many of the expenses submitted by Petitioner were not incurred in the 3 months prior to their submission. Per policy, those expenses cannot be considered. Additionally, Petitioner's expenses were significantly less than her deductible amount, even including the expenses that were not timely or were deficient due to verification issues. Therefore, the Department acted in accordance with policy when it determined Petitioner did not meet her deductible in 2020 and did not activate full coverage MA for Petitioner.

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

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**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-Wayne-15-Greydale-Hearings  
BSC4-HearingDecisions  
M. Holden  
D. Sweeney  
D. Smith  
EQADHearings  
MOAHR

**Petitioner - Via USPS:**

[REDACTED]  
[REDACTED], MI [REDACTED]