



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 17, 2021
MOAHR Docket No.: 21-000319
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference on March 11, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Silvester Williams, supervisor

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly processed Petitioner's medical expenses towards a Medicaid 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. As of August 2020 and September 2020, Petitioner was eligible for Medicaid subject to a monthly deductible of \$830.
2. As of November 2020, Petitioner was an ongoing recipient of FAP benefits.
3. As of November 2020, Petitioner was a disabled member of a 1-person household.
4. As of November 2020, Petitioner received \$994 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).

5. As of November 2020, Petitioner received pension income and his most recent verification listed \$3,175 in annual income during 2019.
6. As of November 2020, Petitioner had no child support or dependent care expenses.
7. As of November 2020, Petitioner was responsible for monthly rent of \$870 and an additional \$30 for a water bill. Petitioner was also responsible for heating and/or cooling expenses.
8. On November 4, 2020, Petitioner submitted to MDHHS a \$1,408 bill listing hospitalization expenses from August 2020.
9. On November 9, 2020, Petitioner submitted to MDHHS medical bills from September 2020 for \$9.05 and \$19.10.
10. On November 4, 2020, MDHHS determined that Petitioner was eligible for Medicaid in August 2020 subject to a \$830 deductible.
11. On November 14, 2020, MDHHS determined that Petitioner's FAP eligibility decreased to \$135 beginning January 2021.
12. On [REDACTED], 2021, Petitioner requested a hearing to dispute FAP eligibility for January 2021 and to dispute the absence of Medicaid for September 2020.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a reduction in FAP eligibility beginning January 2021.¹ Exhibit A, pp. 4-6. A Notice of Case Action dated November 14, 2020, stated that Petitioner was eligible for \$135 in FAP benefits beginning January 2021. Exhibit A, pp. 10-14. MDHHS credibly testified that Petitioner's FAP eligibility decreased after a one-time medical expense from August 2020 was factored in Petitioner's FAP

¹ MDHHS credibly testified that Petitioner received \$204 in FAP benefits in January 2021: the maximum FAP issuance for his group size. Since March 2020, MDHHS has issued the maximum FAP issuance to eligible groups due to a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a detailed analysis of Petitioner's FAP eligibility is still proper.

eligibility for December 2020.² Despite the explanation, a full analysis of Petitioner's FAP eligibility for January 2021 is needed to determine if MDHHS correctly determined eligibility.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. During the hearing, MDHHS provided budget pages for January 2021 listing relevant budget factors. Exhibit A, p. 23-24. Additionally, the determination notice sent to Petitioner included a budget summary which listed all relevant budget factors. Exhibit A, p. 15. During the hearing, all budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.³ Petitioner's did not dispute the benefit group size.

It was not disputed that Petitioner received monthly gross RSDI of \$994 during 2020.⁴ For FAP benefits, gross RSDI is generally countable.⁵ BEM 503 (September 2020) p. 29. For purposes of FAP eligibility, Petitioner's gross monthly RSDI of \$1,320 is countable.

MDHHS factored a monthly pension of \$264 for Petitioner. Petitioner testified that he received only \$175 per month.⁶ MDHHS justified \$264 in pension income by presenting verification of Petitioner's annual pension amount listing \$3,175 in income in 2019. Exhibit B, p. 1. Petitioner presented no documentary evidence supporting a smaller pension amount. Given the evidence, Petitioner received \$3,175 in gross annual pension income.

For FAP, MDHHS is to count gross retirement benefits. BEM 503 (September 2020) p. 29. MDHHS converts income covering several months by dividing the income by the number of months it covers. BEM 505 (October 2017) p. 12. Dividing Petitioner's annual income by 12 results in a monthly gross income of \$264 (dropping cents). Adding Petitioner's RSDI and pension results in countable monthly income of \$1,258: the same amount calculated by MDHHS.

² A Notice of Case Action dated November 4, 2020, stated that Petitioner was eligible for \$204 in FAP benefits in December 2020. Exhibit A, pp. 18-22. A summary of budget factors in the notice listed \$1,373 in countable medical expenses.

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ The disputed FAP determination concerns January 2021 when Petitioner's RSDI increased to \$1,007. MDHHS factored Petitioner's 2020 RSDI amount presumably because Petitioner's RSDI increase for 2021 was not known as of the month of determination.

⁵ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

⁶ Petitioner may be correct in stating he receives only \$175 in monthly income, but he may be neglecting that he receives the net, not gross, amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. Countable expenses are subtracted from a client's monthly countable income.

MDHHS credited Petitioner with \$0 for his dependent care, child support, and medical expenses. Petitioner's testimony acknowledged having no dependent care or child support expenses. Petitioner testified that he submitted medical expenses to MDHHS from September 2020. During the hearing, MDHHS checked Petitioner's electronic case file and discovered that Petitioner submitted on November 9, 2020, medical bills from September 2020 totaling \$28.15. As noted above, only medical expenses above \$35 are counted. Thus, MDHHS properly did not issue any credit to Petitioner for medical expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$167 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's running net income results in an adjusted gross income of \$1,091.

MDHHS credited Petitioner with monthly rent of \$870. Petitioner testified he pays an additional \$30 per month for a water bill. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554 (August 2020) p. 13. Not included in housing expenses are utility expenses such as water. Thus, MDHHS properly credited Petitioner with monthly housing expenses of only \$870.

MDHHS credited Petitioner with a standard heating/utility (h/u) monthly credit of \$537. RFT 255 (October 2019) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁷ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,407.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$862 (rounding up to nearest dollar).

⁷ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$229 in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for January 2021 is \$135; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute MA benefits. Exhibit A, pp. 4-6. Petitioner testified that he was hospitalized in late August 2020 and incurred medical expenses in August 2020 and September 2020. Petitioner did not dispute that he was eligible for Medicaid subject to a monthly deductible of \$830 in August 2020 and September 2020; he only disputed how his submitted medical bills were processed towards his deductible.

Income eligibility for Medicaid exists for the calendar month tested when there is no excess income (i.e., a client is eligible for Medicaid) or allowable medical expenses equal or exceed the excess income (i.e., when submitted medical bills meet the monthly deductible). BEM 545 (July 2019) p. 3. Clients with a deductible can receive Medicaid for a full month when hospitalization costs equal or exceed the group's excess income. *Id.*

It was not disputed that Petitioner submitted to MDHHS on November 4, 2020, a hospital bill from August 2020 of \$1,408. MDHHS immediately processed Petitioner's bill and approved Petitioner for Medicaid for August 2020 subject to Petitioner's deductible of \$830. Exhibit A, pp. 15-17. MDHHS's processing was proper and expeditious.


Petitioner testified his hospitalization extended from August 2020 into September 2020. Thus, Petitioner contended that he met his deductible for September 2020 and he should have also received Medicaid in September 2020. Despite Petitioner's contention, he acknowledged that he did not submit to MDHHS any medical expenses from September 2020 other than the \$28.15 in expenses submitted on November 9, 2020; these expenses fell far short of his \$830 deductible. During the hearing, MDHHS checked Petitioner's submissions and confirmed that Petitioner did not submit other medical expenses from September 2020. MDHHS testimony also confirmed that Petitioner's hospital bill only listed expenses from August 2020.

Given the evidence, MDHHS properly processed Petitioner's medical expenses towards his Medicaid deductible. As discussed during the hearing, Petitioner can still submit to MDHHS medical expenses from September 2020; however, at this point, the expenses may be considered "old bills" and only usable for Medicaid coverage in the future rather than bills directly payable through Medicaid.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$135 in FAP benefits beginning January 2021. It is further found that MDHHS properly processed Petitioner's medical bills towards his deductible for August 2020 and September 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
Administrative Law Judge
for Elizabeth Hertel, 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-3-Hearings
M. Holden
D. Sweeney
C. George
EQADHearings
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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