



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], MI [REDACTED]

Date Mailed: March 15, 2021  
MOAHR Docket No.: 21-000452  
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 March 11, 2021, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by April Williams, Assistance Payments Supervisor.

### **ISSUE**

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 MA recipient.
2. Petitioner's household consisted of herself and her 18-year-old son.
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross amount of \$1,766 per month.
4. On December 9, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was approved for MA benefits with a monthly deductible amount of \$1,021 effective January 1, 2021 (Exhibit A, pp. 9-12).
5. On January 22, 2021, Petitioner submitted a request for hearing disputing the Department's decisions regarding her MA and Food Assistance Program (FAP) benefit cases.

## **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 submitted a request for hearing, in part, to dispute the Department's decisions regarding her FAP benefit case. Petitioner submitted an application for FAP benefits on November 30, 2020. Initially, the Department determined Petitioner was not eligible for FAP benefits (Exhibit A, pp. 23-27). However, the Department corrected the issue and determined Petitioner was eligible for FAP benefits. The Department issued retroactive FAP benefits to Petitioner effective December 1, 2020, ongoing (Exhibit A, p. 29).

Per Department policy, the Michigan Office of Administrative Hearings and Rules may grant a hearing about any of the following: (i) denial of an application and/or supplemental payments; (ii) reduction in the amount of program benefits or service; (iii) suspension or termination of program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 2018), p. 5.

The issue for which Petitioner requested a hearing has been resolved by the Department. Therefore, Petitioner's hearing request is moot. As there is not justiciable issue related to Petitioner's FAP benefit case, her request for hearing related to FAP is **DISMISSED**.

### **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, the Department reviewed Petitioner's circumstances and determined that, because she was the parent of a dependent child in her home, she was eligible for MA coverage under the G2C program. See BEM 105 (April 2017), p. 2; BAM 220 (April 2017), pp. 17-19; BAM 210 (April 2017), p. 1; BEM 135 (October 2015), p. 1. G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1.

For purposes of Group 2 MA eligibility, Petitioner, who is not married, has an MA fiscal group size of one. BEM 211 (January 2016), p. 8. Because she lives in ██████ County, her PIL is \$408. RFT 200 (December 2013); RFT 240, p. 1. Thus, if her household's net income, calculated in accordance with BEM 536 (April 2017), pp. 1-7, exceeds \$408, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income exceeds \$408.

To determine the deductible amount, net income is reduced by allowable needs deductions for health insurance premiums (which includes Medicare premiums paid by the household), remedial services for individuals in adult foster care home or home for the aged and cost of living adjustments (COLA) (for January through March only). BEM 544, pp. 1-2.

The Department did not present Petitioner's G2C deductible budget. It was unclear as to how the Department determined Petitioner's \$1,021 deductible. The undersigned ALJ is unable to determine the Department's net income calculation and what allowable needs deductions, if any, were applied. In the absence of such evidence, the Department failed to establish it properly determined Petitioner's MA eligibility.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.


Accordingly, the Department's decision regarding Petitioner's MA benefit case is **REVERSED**.

Petitioner's request for hearing related to her FAP benefit case is **DISMISSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility as of January 1, 2021, ongoing;
2. Provide Petitioner with MA coverage she is entitled to receive; and
3. Notify Petitioner of its MA decision in writing.

EM/jem



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**Ellen McLemore**  
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-DistrictII-Hearings  
BSC4-HearingDecsions  
M. Holden  
D. Sweeney  
C. George  
EQADhearings  
MOAHR

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED], MI [REDACTED]