



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: May 14, 2021
MOAHR Docket No.: 21-000716
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On February 6, 2021, Petitioner, [REDACTED], requested a hearing to dispute her Food Assistance Program (FAP) benefits and her Medical Assistance (MA). As a result, a hearing was scheduled to be held on May 12, 2021, pursuant to MCL 400.9, 42 CFR 431.200 to 431.250, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner's authorized hearing representative, [REDACTED], appeared on Petitioner's behalf. Respondent, Department of Health and Human Services (Department), had April Nemec, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 92-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Whether the Department properly determined Petitioner's FAP benefit amount when it determined she was eligible for a FAP benefit of \$16.00 per month?

Whether the Department properly determined Petitioner's MA eligibility when it determined the best healthcare coverage she was eligible for was MA with a \$700.00 monthly 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 disabled.
2. Petitioner receives \$1,128.00 per month from social security.

3. Petitioner has Medicare coverage.
4. Petitioner lives alone.
5. Petitioner pays property taxes of \$807.96 per year.
6. Petitioner is responsible for paying her own heating/cooling utilities.
7. On [REDACTED] 2021, Petitioner submitted two applications for assistance to the Department. Petitioner reported that she pays monthly medical expenses.
8. Petitioner had active MA at the time she submitted her applications. Petitioner had Medicare Cost Savings (SLMB) coverage and MA with a \$686.00 monthly deductible.
9. On [REDACTED] 2021, the Department interviewed Petitioner. During the interview, the Department determined that Petitioner's monthly medical expenses did not exceed \$35.00 per month.
10. The Department reviewed the information provided by Petitioner and determined that she was eligible for a FAP benefit of \$19.00 per month, based on a group size of one, a household income of \$1,121.00 per month, and a housing expense of \$66.67 per month (plus utilities for heating and cooling). The Department did not budget any medical expenses because it determined that Petitioner's monthly medical expenses did not exceed \$35.00 per month.
11. On February 3, 2021, the Department issued a notice of case action to notify Petitioner that she was eligible for a FAP benefit of \$19.00 per month.
12. Subsequently, the Department discovered that it erroneously budgeted Petitioner's household income at \$1,121.00 when it should have been budgeted at \$1,128.00.
13. On February 13, 2021, Petitioner turned [REDACTED] years old.
14. On February 18, 2021, the Department issued a notice of case action to notify Petitioner that she was eligible for a FAP benefit of \$16.00 per month, based on a corrected budget with a household income of \$1,128.00 per month.
15. On February 18, 2021, the Department also issued a notice of case action to notify Petitioner that she was eligible for MA with a \$700.00 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).

FOOD ASSISTANCE

The Food Assistance Program (FAP) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income, and then looking that information up in its applicable Food Issuance Table. BEM 212 (October 1, 2020), BEM 213 (October 1, 2020), BEM 550 (January 1, 2020), BEM 554 (January 1, 2021), BEM 556 (January 1, 2021), RFT 255 (January 1, 2021), and RFT 260 (January 1, 2021). Here, there is no evidence that the Department did not properly determine Petitioner's FAP benefit.

Petitioner did not present any evidence to establish that her household income or allowable expenses were different than those used by the Department, and Petitioner did not present any evidence to establish that her group size was greater than that used by the Department. However, the Department did not properly determine Petitioner's FAP benefit amount. Based on a group size of one, a household income of \$1,128.00 per month, a property tax expense of \$67.33 per month, and the standard deduction for heating/cooling, Petitioner is eligible for a FAP benefit of \$19.00 per month.

Although Petitioner asserted that she had medical expenses that should have been considered, Petitioner did not present sufficient evidence to establish that she had allowable medical expenses that should have been budgeted. If Petitioner has medical expenses that she would like to have budgeted in the future, Petitioner must provide proof of those expenses to the Department so the Department can adjust Petitioner's budget. If the Department determines that Petitioner has allowable medical expenses in excess of \$35.00 per month, Petitioner will have the option to take the standard medical deduction of \$165.00 or to verify actual medical expenses. BEM 554 at 9. Petitioner may submit proof of her medical expenses to the Department anytime. Acceptable verification may include bills for allowable expenses, actual receipts for allowable expenses, or a written statement from a licensed medical provider. *Id.* at 13.

The Department did not properly determine Petitioner's FAP benefit because the Department determined that Petitioner was eligible for a FAP benefit of \$16.00 per month when Petitioner was eligible for a FAP benefit of \$19.00 per month. Since the Department did not properly determine Petitioner's FAP benefit, the Department's decision is reversed. Although the Department's decision is reversed to correct the FAP benefit amount, this will have no impact on the FAP benefits that Petitioner has been receiving because all FAP recipients have been receiving the maximum benefit for their household size since April 2020 due to a pandemic policy.

MEDICAL ASSISTANCE

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Individuals who have Medicare who are either disabled or aged must have an income that is equal to or less than the federal poverty limit (FPL) to be eligible for full-coverage MA. In 2021, the FPL for a household size of one is \$12,880.00 per year. 86 FR 7732 (February 1, 2021), p. 7732-7734. Petitioner's income exceeded the limit because her annual income from social security is greater than \$12,880.00 per year. Since Petitioner's income exceeds the limit, the Department properly found Petitioner ineligible for full-coverage MA.

Individuals who are either disabled or aged are eligible for MA with a monthly deductible when they are ineligible for full-coverage MA. The amount of the monthly deductible is equal to the individual's monthly gross income, minus allowable deductions, and minus the protected limit set by policy. BEM 166 (April 1, 2017), p. 2. Social security recipients are eligible for a \$20.00 deduction. BEM 541 (January 1, 2021), p. 3. The protected income limit for a household size of one in Genesee County is \$408.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). Petitioner's monthly gross income is \$1,128.00, Petitioner is eligible for a \$20.00 deduction, and the applicable protected income limit is \$408.00, so Petitioner's monthly deductible is \$700.00.

The Department properly determined Petitioner's MA eligibility when it determined the best healthcare coverage she was eligible for was MA with a \$700.00 monthly deductible.

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 (a) the Department did not act in accordance with its policies and the applicable law when it determined Petitioner's Food Assistance Program benefit amount, and (b) the Department acted in accordance with its policies and the applicable law when it determined Petitioner's Medical Assistance eligibility.

IT IS ORDERED, the Department's decision is **REVERSED IN PART**. The Department shall begin to implement this decision within 10 days.

JK/cc



Jeffrey Kemm
Administrative Law Judge

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-Genesee-UnionSt-Hearings
BSC1-HearingDecisions
EQADHearings
C. George
D. Sweeney
M. Holden
MOAHR

Authorized Hearing Rep.-Via USPS:

[REDACTED]

Petitioner- Via USPS:

[REDACTED]