



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 6, 2022
MOAHR Docket No.: 22-004947
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 November 30, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ashley Soper, manager, and Jacob Frankmann, lead worker.¹

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for cash assistance.

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

The third issue is whether MDHHS properly denied Petitioner's eligibility for Medicare Savings Program (MSP) benefits.

The fourth issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER).

The fifth issue is whether MDHHS properly determined Petitioner's Medicaid eligibility.

¹ During the hearing, the phone of the administrative judge unexpectedly dropped the call approximately 5 minutes into a 10-minute break. Upon return, MDHHS representatives left the hearing and did not return despite being notified by email that the hearing was continuing.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On an unspecified date, Petitioner applied for MSP benefits.
2. As of June 2022, Petitioner was an ongoing recipient of Medicaid, subject to a monthly deductible of \$983.
3. As of June 2022, Petitioner was eligible to receive gross monthly Retirement, Survivors, Disability Insurance (RSDI) of \$1,411.
4. On June 6, 2022, Petitioner submitted to MDHHS a quitclaim deed indicating a transfer of property into a trust in her name.
5. On June 8, 2022, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting trust documents by June 21, 2022.
6. On [REDACTED], 2022, Petitioner applied for cash assistance and reported a household with no other persons.
7. On August 4, 2022, MDHHS mailed Petitioner a Redetermination form for the purpose of renewing Petitioner's FAP benefit period which was scheduled to end after September 2022.
8. On August 11, 2022, MDHHS denied Petitioner's application for cash assistance due to excess income.
9. On August 11, 2022, MDHHS determined Petitioner to be ineligible for MSP benefits beginning June 2022 due to Petitioner's failure to return trust documents.
10. On [REDACTED], 2022, Petitioner applied for SER.
11. On September 15, 2022, MDHHS mailed Petitioner a SER-VCL requesting trust documents by September 22, 2022
12. On September 23, 2022, MDHHS denied Petitioner's SER application due to a failure to return trust documents.
13. As of September 30, 2022, Petitioner did not return a Redetermination form or trust documents to MDHHS.
14. On October 27, 2022, Petitioner requested a hearing to dispute "everything".

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute “everything”. Exhibit A, pp. 4-122. “Everything” included the denial of a cash assistance application. Petitioner applied for cash assistance on July 29, 2022. A Notice of Case Action dated August 11, 2022, stated that Petitioner was ineligible for cash assistance due to excess income. *Id.*

MDHHS offers two types of cash assistance programs. The Family Independence Program (FIP) provides financial assistance to families with dependent children. BEM 100 (October 2018) p. 1. SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. *Id.*, p. 5. As Petitioner was neither pregnant nor a caretaker of minor children, Petitioner was only potentially eligible to receive SDA benefits.

To receive SDA, the certified group must be in financial need to receive benefits. BEM 515 (October 2018) p. 1. Need is determined to exist when budgetable income is less than the payment standard established by MDHHS. *Id.* The payment standard is the maximum benefit amount that can be received by the benefit group. *Id.* Income is subtracted from the payment standard to determine the grant amount. *Id.*

Petitioner received monthly gross RSDI of \$1,411. For SDA, MDHHS counts the gross amount of RSDI benefits as unearned income. BEM 503 (April 2021) p. 29. Thus, Petitioner’s \$1,411 in monthly gross RSDI is countable in the SDA budget.

It was not disputed that Petitioner was unmarried. The SDA payment standard for an unmarried person is \$200. RFT 225 (December 2013) p. 1. Petitioner’s countable income of \$1,411 exceeds the SDA payment standard of \$200.² Thus, MDHHS properly denied Petitioner’s application for cash assistance.

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

² An SDA budget verified that MDHHS used the same income and payment standard in denying SDA benefits to Petitioner. Exhibit A, pp. 142-143.

Petitioner also requested a hearing to dispute a termination of FAP benefits. A Notice of Case Action dated October 27, 2022, stated Petitioner's FAP eligibility would end October 2022 due to Petitioner's certification period ending. Exhibit A, pp. 147-150.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2022) p. 3. Bridges, the MDHHS database, automatically sends a DHS-1010, Redetermination, to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client returns a DHS-1010 or other acceptable redetermination form. *Id.*, p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the FAP case and a Notice of Case Action is not generated.³ *Id.*, p. 14.

MDHHS presented a DHS-1010 mailed to Petitioner on August 4, 2022. Exhibit A, pp. 124-130. MDHHS contended that Petitioner did not return the Redetermination form.

Petitioner responded that she returned the form to MDHHS on August 8, 2022. During the hearing, MDHHS checked Petitioner's electronic case file (ECF) which indicated that MDHHS received three utility documents on August 8, 2022, but not a Redetermination form. Petitioner testified that she always returns documents to MDHHS, though she acknowledged she receives a lot of documents. Petitioner provided no further corroboration for her alleged submission.

Given the evidence, Petitioner did not return a Redetermination form to MDHHS. Thus, MDHHS properly allowed Petitioner's FAP eligibility to expire at the end of September 2022. As discussed during the hearing, if FAP benefits are still needed, Petitioner's recourse is to reapply.

The 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. MA policies are contained in the BAM, BEM, and RFT.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner also requested a hearing to dispute a denial of MSP and SER. Exhibit A, pp. 4-122. A Health Care Coverage Determination Notice dated August 11, 2022, stated

³ For unknown reasons, a Notice of Case Action was generated in the present case.

that MSP was denied beginning June 2022 due to Petitioner failing to verify trust assets. Exhibit A, pp. 151-153. A State Emergency Relief Decision Notice dated September 23, 2022, stated that Petitioner's SER was also denied due to Petitioner's failure to verify trust assets. Exhibit A, pp. 144-146.

For all SER services, MDHHS is to verify and count all non-excluded assets of group members with every application. ERM 205 (October 2021) p. 1. Countable assets include trusts. *Id.*, pp. 6-8. A client statement is not acceptable verification of trust contents. *Id.*, p. 6. MDHHS is to use the DHS-3503, SER Verification Checklist (SER-VCL), to request verification and to notify the client of the due date for returning the verifications. ERM 103 (October 2022) p. 3. The due date to return verifications is at least eight calendar days from the date of SER-VCL mailing. *Id.*, p. 6. MDHHS is to deny the SER application if the group fails to cooperate in returning verification. *Id.* p. 5.

For MSP, countable assets cannot exceed the limit in BEM 400. Countable assets are determined based on MA policies in BEM 400, 401 and 402. MDHHS is to verify trust income and principal. BEM 401 (January 2022) pp. 18-19. For MSP, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2021) p. 3. MDHHS is to use a VCL to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

MDHHS testified it learned of Petitioner's trust after Petitioner submitted a property deed on June 6, 2022. The deed verified a quitclaim of real property to a trust in Petitioner's name. Exhibit A, pp. 131-132. In response, MDHHS sent Petitioner a VCL requesting trust documents on June 8, 2022, to determine Petitioner's MSP eligibility. Exhibit A, pp. 133-135. MDHHS also requested trust documents via a SER-VCL dated September 15, 2022. Exhibit A, pp. 136-137. MDHHS contended that Petitioner failed to return trust documents before the denial of MSP or SER.

Petitioner responded that she always returns requested documents, though she could not testify when she returned trust documents to MDHHS. During the hearing, MDHHS credibly testified that Petitioner's ECF did not include a return of trust documents before Petitioner requested a hearing on October 27, 2022.⁴ Petitioner provided no corroboration that she timely submitted trust documents.

Given the evidence, Petitioner failed to timely return trust documents in response to VCLs sent for MSP and SER. Thus, MDHHS properly denied Petitioner's MSP and SER applications.

⁴ Petitioner submitted over 100 pages of documents with her hearing request which may have included trust documents. Exhibit A, pp. 4-122. Assuming Petitioner did verify her trust when requesting a hearing, the submission was too late to resurrect the denied SER application.

Petitioner's final program disputed was Medicaid. Exhibit A, pp. 3-122. MDHHS credibly testified that Petitioner was an ongoing Medicaid recipient subject to a \$983 deductible.

MA is also known as Medicaid. BEM 105 (January 2021) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

As of the disputed benefit month, Petitioner was disabled and/or aged, a recipient of Medicare, not pregnant, and not a caretaker to minor children. Petitioner would not be eligible for HMP because she is a recipient of Medicare. BEM 137 (June 2020) p. 1. Petitioner is also not eligible for any MA programs using MAGI methodology. As a disabled and/or aged individual, Petitioner is potentially eligible for Medicaid under the SSI-related category of Aged/Disability-Care (AD-Care).

AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

It was not disputed that Petitioner was not married. As an unmarried individual, Petitioner's benefit group size for AD-Care is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly income of \$1,411 from RSDI.⁵ Exhibit A, pp. 12-13. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁶ BEM 503 (April 2019) p. 28. For purposes of AD-Care, Petitioner's countable income is \$1,411.

⁵ Petitioner testified she received only \$1,190 in monthly RSDI. Petitioner spent much of the hearing claiming various frauds by her ex-spouse and/or unknown persons causing a reduction in RSDI. The evidence suggested that Petitioner's RSDI was reduced due to a Medicare premium and perhaps some other recoupment. However, no evidence suggested that \$1,411 was an improper amount to budget for gross RSDI.

⁶ 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.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A standard \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. AD-Care budget credits are allowed for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019) p. 29. Petitioner did not allege any relevant expenses or credits. Subtracting the standard \$20 disregard from Petitioner's countable income results in a countable net income of \$1,391

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. The 2022 annual federal poverty level for a 1-person group in Michigan for 2022 is \$13,590.⁷ Dividing the annual amount by 12 results in a monthly income limit of \$1,133 (rounding up to nearest dollar). The same income limit is found in MDHHS policy.⁸ RFT 242 (April 2022) p. 1. Petitioner's group's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care.

Though Petitioner is ineligible for Medicaid under a Group 1 category, Petitioner may still receive Medicaid under a Group 2 category. For Group 2, MA eligibility is possible even when net income exceeds the income limit. BEM 105 (January 2021) p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible.⁹ *Id.* For aged/disabled persons, G2S is the applicable Group 2 Medicaid category.

Petitioner's gross countable income of \$1,411 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. There was no evidence that Petitioner had any applicable expenses.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$983. MDHHS calculated the same deductible. Thus, MDHHS

⁷ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁸ MDHHS policy lists an income limit of \$1,153 while noting that the \$20 disregard is already factored into the income limit.

⁹ Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred.⁹ BEM 545 (April 2018) p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

properly determined Petitioner to be eligible for Medicaid subject to a monthly deductible of \$983.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner was eligible for Medicaid subject to a deductible of \$983. MDHHS also properly denied Petitioner's applications for cash assistance dated July 29, 2022, and SER dated September 13, 2022. MDHHS additionally properly denied Petitioner's MSP eligibility beginning June 2022 and terminated Petitioner's FAP eligibility beginning October 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
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-Electronic Mail :

DHHS
MDHHS-Oakland-6303-Hearings
EQAD Hearings
E. Holzhausen
D. Sweeney
K. Schulze
B. Sanborn
C. George
M. Holden
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Via-First Class Mail :

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