



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 8, 2023
MOAHR Docket No.: 23-004320
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 August 29, 2023, from Lansing, Michigan. [REDACTED] Fiancé, represented the Petitioner. [REDACTED] the Petitioner, was present. The Department of Health and Human Services (Department) was represented by Eileen Kott, Family Independence Manager (FIM).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-37. Petitioner's additional documentation was admitted as Exhibit 1, pp. 1-22.

ISSUES

Did the Department properly deny ongoing eligibility for the Food Assistance Program (FAP) for Petitioner's household?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department re-determined Petitioner's eligibility for FAP as of March 2023. (Exhibit A, pp. 35-37)

2. On March 28, 2023, a Notice of Case Action was issued to Petitioner stating MA would be denied effective March 1, 2023, based on income in excess of program limits. (Exhibit A, pp. 30-34)
3. On July 3, 2023, Petitioner submitted a Redetermination for his MA case. (Exhibit A, pp. 8-14)
4. The Department verified Petitioner's income from Social Security Administration (SSA) issued Retirement Survivor Disability Insurance (RSDI) benefits. (Exhibit A, pp. 15-17)
5. On July 12, 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating MA would be denied effective September 1, 2023 based on verification of bank accounts not being returned. (Exhibit A, pp. 18-21)
6. On July 27, 2023, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 3-6)
7. On July 31, 2023, the Department noticed that no Verification Checklist had been sent to Petitioner requesting the verification of bank accounts. (Exhibit 6 A, p. 1)
8. On July 31, 2023, a Verification Checklist was issued to Petitioner requesting verification of his banking accounts and mortgage with a due date of August 10, 2023. (Exhibit A, pp. 1 and 22-23)
9. During a July 31, 2023 prehearing conference all requested verifications were provided. (Exhibit A, p. 1)
10. On July 31, 2023, a Health Care Coverage Determination Notice was issued to Petitioner, approving Petitioner for Transitional Medicaid for the month of August 2023 and approving MA with a monthly deductible of \$2,625.00 effective September 1, 2023. (Exhibit A, pp. 24-29)

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.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550, January 1, 2022, p. 1. The net income limit for a FAP group size of one is \$1,133.00. RFT 250, October 1, 2022, p. 1.

The Department counts the gross benefit amount of RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29.

The Department is to always calculate income on a calendar month basis to determine eligibility and benefit amounts. BEM 550, p. 1. The Department is to budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550, p. 1. The standard deduction for a group size of one is \$193.00. RFT 255, February 1, 2023, p. 1.

Medical expenses that exceed \$35.00 may be considered for FAP groups with an SDV member. BEM 554, October 1, 2022, p. 1.

A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 13. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 16.

The Department re-determined Petitioner's eligibility for FAP as of March 2023. The Department considered Petitioner's income from RSDI benefits, the standard deduction, Petitioner's housing expense, the full h/u standard, and a medical expense for the Medicare premium. Petitioner's net income was [REDACTED], which exceeds the net income limit of \$1,133.00. (Exhibit A, pp. 35-37; FIM Testimony). Accordingly, on March 28, 2023, a Notice of Case Action was issued to Petitioner stating MA would be denied effective March 1, 2023, based on income in excess of program limits. (Exhibit A, pp. 30-34).

Petitioner indicated there was a discrepancy with the amount of his mortgage in the FAP budget. Petitioner explained that his mortgage increased to \$1,710.00 per month. However, Petitioner acknowledged that he provided documentation of the increase in his mortgage in July 2023. (Petitioner Testimony). This was after the March 28, 2023 determination. Accordingly, the increase could not have been considered at that time. (FIM Testimony). Petitioner noted that he pays his Medicare premium. (Petitioner Testimony). The Medicare premium was included in the FAP budget. (Exhibit A, pp. 31 and 35; FIM Testimony).

Overall, the evidence establishes that the Department properly denied ongoing FAP eligibility for Petitioner based upon the information available at the time of the March 28, 2023 determination.

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.

The Medicaid program comprise several sub-programs or categories. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2021, p. 1.

The Department counts the gross benefit amount of RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. The Department does count allowable medical expenses, such as health insurance premiums, in the MA eligibility budget. BEM 544, pp. 1-2.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus $\frac{1}{2}$ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2023, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, (July 1, 2022), p. 1-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The examples listed in policy indicate that the client has until the last day of the

third month after the expense to report the expense to the Department for it to be utilized for that month; or until the last day of the third month following notification that they have a deductible case to report the expense. BEM 545, p. 10-12.

On July 3, 2023, Petitioner submitted a Redetermination for his MA case. (Exhibit A, pp. 8-14). The Department verified Petitioner's income from SSA issued RSDI benefits. (Exhibit A, pp. 15-17).

On July 12, 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating MA would be denied effective September 1, 2023 based on verification of bank accounts not being returned. (Exhibit A, pp. 18-21). However, on July 31, 2023, the Department noticed that no Verification Checklist had been sent to Petitioner requesting the verification of bank accounts. (Exhibit 6 A, p. 1).

On July 31, 2023, a Verification Checklist was issued to Petitioner requesting verification of his banking accounts and mortgage with a due date of August 10, 2023. (Exhibit A, pp. 1 and 22-23). During a July 31, 2023 prehearing conference all requested verifications were provided. (Exhibit A, p. 1).

The Department re-determined Petitioner's eligibility for MA. On July 31, 2023, a Health Care Coverage Determination Notice was issued to Petitioner, approving Petitioner for Transitional Medicaid for the month of August 2023 and approving MA with a monthly deductible of \$2,625.00 effective September 1, 2023. (Exhibit A, pp. 24-29).

Petitioner contests having the monthly deductible and requested to be able to keep the straight Medicaid with no monthly deductible. Petitioner and his AHR described difficulties Petitioner would have with providing the needed verifications of his ongoing medical expenses to document when he meets the monthly deductible, as well as the stress of the deductible process and wondering if he would have medical coverage. (Petitioner Testimony). As discussed during the hearing, this Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income.

Petitioner noted the costs of his medications. (Petitioner Testimony and Exhibit 1). However, as noted by the FIM, medical expenses paid for by another resource cannot be considered toward the monthly deductible. (FIM Testimony). For example, one of Petitioner's medications costs \$13,591.00 per month. However, Petitioner's Medicare and another program/organization (Extra Help) paid for the total cost of this medication. The documentation Petitioner provided showed that he paid \$0.00 for this medication. (Exhibit 1, p. 6).

Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA based upon the available information.

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 denied ongoing FAP benefits for Petitioner and when it determined Petitioner's eligibility for MA.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.

CL/ml



Colleen Lack
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
Dora Allen
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Interested Parties

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M Schaefer
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Via First Class Mail:

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