



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: August 30, 2023  
MOAHR Docket No.: 23-004469  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 on August 24, 2023 via teleconference. Petitioner appeared and represented herself. Melissa Stanley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUES**

1. Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?
2. Did MDHHS properly determine Petitioner's Medicaid (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. On May 16, 2023, Petitioner filed an application for FAP and MA (Exhibit A, p. 7). Petitioner reported that she had a disability (Exhibit A, p. 9).
2. On June 8, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household of one at a rate of \$23.00 per month, beginning June 1, 2023 ongoing (Exhibit A, p. 36).
3. On August 8, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was approved for MA full coverage for

one day, on June 30, 2023, and approved for MA with a \$964.00 deductible from June 1, 2023 to June 29, 2023 (Exhibit A, p. 29).

4. On July 31, 2023, Petitioner filed a Request for Hearing to dispute her FAP benefit rate and her eligibility for MA with a deductible (Exhibit A, pp. 4-5).

### **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).

#### **The Food Assistance Program (FAP)**

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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS determined that Petitioner was eligible for \$[REDACTED] per month in FAP benefits. Petitioner disputed the calculation of her FAP benefit rate. FAP beneficiaries are entitled to dispute the benefit amount whenever they believe that the amount is incorrect. BAM 600 (March 2021), p. 5. MDHHS confirmed that Petitioner's FAP benefit rate increased after she submitted the Request for Hearing. This decision addresses MDHHS' determination prior to the increase.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2022), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. For Retirement, Survivors, and Disability Insurance (RSDI) income, MDHHS counts the gross amounts as unearned income. BEM 503 (January 2023), pp. 29-30.

MDHHS determined that Petitioner received \$1,375.00 per month in RSDI. Petitioner did not dispute this amount. Because Petitioner received the RSDI payment monthly, there was no need to standardize the amount further. There was no evidence of any other income available to Petitioner. Therefore, MDHHS properly determined that Petitioner's unearned income was \$1,375.00 based on her RSDI income.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, or court-ordered child support. Regarding medical expenses, Petitioner submitted proof of various medical expenses after MDHHS made the determination. MDHHS testified that the verified medical expenses were budgeted, which led to an increase in Petitioner's FAP benefit rate, effective September 1, 2023 ongoing. There was no evidence that Petitioner submitted verified medical expenses prior to this time. MDHHS budgeted the standard deduction for a household of one, which was \$193.00. RFT 255 (February 2023), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the standard deduction of \$193.00 was subtracted from the countable income of \$1,375.00 to equal \$1,182.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$233.00, MDHHS considered Petitioner's verified housing expenses of \$200.00 and budgeted the heat and utility standard of \$624.00. BEM 554, p. 16. Adding these amounts together, equals \$824.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$591.00, from Petitioner's total shelter amount of \$824.00 equals \$233.00. Thus, MDHHS properly calculated that the excess shelter deduction was \$233.00.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$233.00 from Petitioner's AGI of \$1,182.00 to equal \$949.00. A household of one with a net income of \$949.00 is entitled to receive \$[REDACTED] per month in FAP benefits. RFT 260 (October 2022), p. 14.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

**Medicaid (MA)**

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS determined that Petitioner was eligible for MA under the Group 2 Aged, Blind and Disabled (G2S) category with a deductible of \$964.00. However, the August 8, 2023 Health Care Determination Notice only addresses Petitioner's MA coverage for the month of June 2023. Inexplicably, the notice provides that Petitioner is eligible for MA with a \$964.00 deductible from June 1, 2023 to June 29, 2023, and full coverage MA for one day on June 30, 2023. It is unclear why MDHHS determined that Petitioner was eligible for full coverage MA for one day only. MDHHS did not explain this discrepancy at the hearing.

MA is determined on a calendar month basis. BEM 105, p. 2. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. *Id.* When determining eligibility for a future month, MDHHS is required to assume circumstances as of the processing date will continue unchanged unless it has information that indicates otherwise. MDHHS is required to notify the client in writing upon certification of eligibility results. BAM 220 (April 2023), p. 2.

The August 8, 2023 Health Care Determination Notice is facially insufficient because it only addresses MA eligibility for one month and states that Petitioner is eligible for full-coverage MA for one day only. Given that deficiencies on the notice and the lack of explanation for the one-day determination regarding full coverage MA, MDHHS has failed to show that it acted in accordance with Department policy when determining Petitioner's eligibility for MA.

**DECISION AND ORDER**

Accordingly, MDHHS' determination is **AFFIRMED IN PART** with respect to the calculation of the FAP benefit rate and **REVERSED IN PART** with respect to MA determination.

MDHHS 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. Reregister Petitioner's May 16, 2023 application for MA;

2. Determine Petitioner's eligibility for MA based on the May 16, 2023 application;
3. If eligible, provide Petitioner with the most beneficial MA coverage from the date of eligibility ongoing; and
4. Notify Petitioner of its decision in writing.



LJ/tm

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**Linda Jordan**  
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**  
Elisa Daly  
Saginaw County DHHS  
411 East Genesee  
Saginaw, MI 48607  
**MDHHS-Saginaw-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
M. Schaefer  
EQADHearings  
BSC2

**Via-First Class Mail :**

**Petitioner**

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