



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] MI [REDACTED]

Date Mailed: October 20, 2023  
MOAHR Docket No.: 23-005960  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

**HEARING DECISION**

On September 12, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination and her Food Assistance Program (FAP) benefit amount. As a result, a hearing was scheduled to be held on October 18, 2023, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 7 CFR 273.15; and Mich Admin Code, R 792.11002. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department) had Lianne Scupholm, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

Did the Department properly determine Petitioner's MA eligibility?

Did the Department properly determine Petitioner's FAP benefit amount?

**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 aged or disabled.
2. Petitioner has a household size of one.

3. Petitioner receives gross pay of [REDACTED] per month from social security RSDI.
4. Petitioner has Medicare coverage, and Petitioner pays a \$164.90 monthly premium.
5. Petitioner pays \$846.00 per month for rent, and Petitioner is responsible for paying for utilities (including heating/cooling).
6. Petitioner pays \$468.00 per month for a car payment, and Petitioner pays \$92.00 per month for car insurance.
7. On July 8, 2023, Petitioner completed a redetermination form to renew her eligibility for MA.
8. The Department reviewed Petitioner's case, including the redetermination form that Petitioner completed, and the Department determined that the best MA that Petitioner was eligible for was limited-coverage Plan First and coverage with a deductible.
9. On July 17, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was eligible for limited-coverage Plan First and coverage with a \$1,191.00 monthly deductible. The effective date of the coverage was August 1, 2023.
10. Petitioner is a FAP benefit recipient, and Petitioner's FAP benefit amount was \$95.00 as of August 1, 2023.
11. Petitioner requested a hearing to dispute her MA coverage and her FAP benefit amount.

### **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).

### **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.

Petitioner is disputing her health care coverage because she has a deductible, and she would like to have health care coverage without a deductible. Health care coverage is available without a deductible for those who meet program requirements. One of the programs that provides health care coverage without a deductible is the Healthy Michigan Plan. However, Petitioner does not meet the program requirements for Healthy Michigan because Petitioner has Medicare, and coverage through the Healthy Michigan Plan is limited to individuals who do not qualify for Medicare. BEM 137 (June 1, 2020), p.1.

Another program that provides health care coverage without a deductible is AD Care. In order for a client to be eligible for full-coverage AD Care, the client must be aged or disabled, and the client's group's net income must not exceed 100% of the Federal Poverty Limit (FPL). BEM 163 (July 1, 2017), p. 1-2. For AD Care, the client's group size consists of the client and the client's spouse. BEM 211 (July 1, 2019), p. 8. In this case, Petitioner's group just consists of Petitioner because Petitioner does not have a spouse. The FPL for a household size of one in 2023 is \$14,580.00. 88 FR 3424 (January 19, 2023). This is equal to a monthly income of \$1,215.00.

When group members receive income from social security RSDI, the gross amount received from RSDI is countable. BEM 163 at p. 2. However, \$20.00 is disregarded from social security RSDI income. BEM 541 (January 1, 2023), p. 1. In this case, Petitioner received [REDACTED] per month from social security RSDI. After the \$20.00 disregard, the countable amount was [REDACTED] per month.

Although the income limit states that it is based on "net income," this refers to gross income after allowable deductions. BEM 541 (January 1, 2023). Petitioner was not eligible for any of the allowable deductions other than the \$20.00 disregard for social security RSDI. Thus, Petitioner's net income exceeded the limit for Petitioner to be eligible for full-coverage AD Care because the income limit was \$1,215.00 per month, and Petitioner's income was [REDACTED] per month. Therefore, the Department properly found that Petitioner was not eligible for full-coverage AD Care.

Petitioner asserted that her other expenses such as her car payment and car insurance should be considered, but those expenses cannot be considered because only allowable deductions stated in policy are allowed, and those are not allowable deductions stated in policy.

Since the Department found Petitioner ineligible for health care coverage without a deductible under the Healthy Michigan Plan and AD Care, the Department determined that the best available coverage for Petitioner was Group 2 MA. Group 2 MA provides health care coverage for any month that (a) an individual's countable income does not exceed the individual's needs as defined in policy, or (b) an individual's allowable medical expenses equal or exceed the amount of the individual's income that exceeds the individual's needs. BEM 166 (April 1, 2017), p. 2.

To determine whether an individual's income exceeds her needs, the Department determines the individual's countable income and needs. Countable income is the same as the income that is used to determine eligibility for AD Care without a deductible. Needs consist of a protected income limit set by policy, the cost of health insurance premiums, and the cost of remedial services. BEM 544 (January 1, 2020), p. 1-3. In this case, the Department properly determined that Petitioner's income exceeded her needs by \$1,191.00 per month.

The Department calculated Petitioner's excess income by subtracting the protected income limit and the cost of medical insurance premiums from Petitioner's countable monthly income. As stated above, Petitioner's countable monthly income is [REDACTED]. The protected income limit for a household of one in [REDACTED] County is \$375.00 per month. RFT 200 (April 1, 2017) and RFT 240 (December 1, 2013). Petitioner had a medical insurance premium of \$164.90 per month, and there was no evidence that Petitioner had to pay for remedial care. Thus, Petitioner's excess income is [REDACTED] minus \$375.00 minus \$164.90, which equals [REDACTED] per month. The Department determined the amount to be \$1,191.00 per month due to differences in rounding.

Since Petitioner's countable income exceeds her needs by \$1,191.00, Petitioner will only be eligible for health care coverage for any month that her allowable medical expenses equal or exceed \$1,191.00. Petitioner did not present any evidence to establish that she had allowable medical expenses that equaled or exceeded \$1,191.00. If Petitioner has outstanding medical expenses that equal or exceed \$1,191.00, Petitioner should provide documentation of those expenses to the Department to obtain health care coverage.

### **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 net household income, and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2022), BEM 213 (January 1, 2023), BEM 550 (April 1, 2023), BEM 554 (April 1, 2023), BEM 556 (January 1, 2023), RFT 255 (October 1, 2022), and RFT 260 (October 1, 2022). Here, there is no evidence that the Department did not properly determine Petitioner's FAP benefit amount.

Based on Petitioner's household size of one, Petitioner's monthly gross income of [REDACTED], Petitioner's rent of \$846.00, Petitioner's Medicare premium of \$164.90, and Petitioner's obligation to pay utilities (including heating/cooling), the Department properly determined that Petitioner's net income was [REDACTED] and the Department

properly determined that the maximum FAP benefit Petitioner is eligible for is \$95.00 per month.

Although Petitioner may not actually have a net income of [REDACTED] to pay her expenses, the Department properly determined that Petitioner's net income was [REDACTED] for purposes of computing her FAP benefit amount. The Department followed the applicable policies and used the maximum deductions it was permitted to use to calculate Petitioner's net income and FAP benefit amount. The Department did not consider Petitioner's car payment and car insurance because only allowable deductions stated in policy are allowed, and those are not allowable deductions stated in policy. Thus, the Department properly determined Petitioner's FAP benefit amount when it determined she was eligible for a FAP benefit of \$95.00 per month.

### **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 did act in accordance with its policies and the applicable law when it determined Petitioner's Medical Assistance eligibility and Petitioner's Food Assistance Program benefit amount.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/ml

  
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**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 Electronic Mail:**

**DHHS**  
Kristina Etheridge  
Calhoun County DHHS  
190 East Michigan  
Battle Creek, MI 49016  
**MDHHS-Calhoun-Hearings@michigan.gov**

**Interested Parties**

BSC3  
M Schaefer  
EQAD  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail:**

**Petitioner**

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