



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
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], MI [REDACTED]

Date Mailed: November 21, 2023
MOAHR Docket No.: 23-006849
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 15, 2023, via teleconference. Petitioner appeared and represented herself. Juanita Munoz, 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 eligibility for Medicaid (MA) benefits?
2. Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

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 was an ongoing beneficiary of MA coverage with a deductible.
2. Petitioner was an ongoing recipient of FAP benefits, receiving \$23.00 per month.
3. On October 5, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' determinations regarding her MA benefits and her FAP benefit rate (Exhibit A, pp. 5-7).

4. On October 20, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit rate increased to \$136.00 per month for a household of one, beginning November 1, 2023 (Exhibit A, p. 9).
5. On October 20, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for full coverage MA, effective December 1, 2022 ongoing and approved for Medicare Savings Program (MSP) coverage, effective October 1, 2023 ongoing (Exhibit A, p. 16).

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).

Medicaid

The Medicaid (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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (October 2023), p. 1.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

State actions which entitle a client to a hearing include a denial of an application, a reduction in the amount of program benefits, a suspension or termination of program benefits, restrictions under which benefits are provided, and a delay of any action beyond the standard of promptness. BAM 600 (March 2021), p. 5.

Here, Petitioner requested a hearing regarding her MA coverage because MDHHS determined that she was eligible for MA with a deductible. Upon review, MDHHS discovered that it was budgeting earned income based on historical data that Petitioner

was no longer receiving. It removed the earned income and approved Petitioner for full-coverage MA without a deductible, effective December 1, 2022 ongoing (Exhibit A, p. 16). It also approved Petitioner for MSP coverage beginning October 1, 2023 (Exhibit A, p. 16).

At the hearing, Petitioner testified that she was now satisfied with MDHHS' determination regarding her healthcare coverage given the corrective action that was taken. Petitioner requested to withdraw her Request for Hearing regarding MA coverage. MDHHS had no objection. The undersigned Administrative Law Judge found that good cause existed to grant Petitioner's request because there was no remaining dispute and granted the request on the record.

Accordingly, the matter regarding Petitioner's MA coverage is **DISMISSED** pursuant to the withdrawal of the Request for Hearing during the hearing.

Food Assistance Program

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. 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, Petitioner disputed MDHHS' calculation of her FAP benefit rate. FAP recipients have the right to challenge their current benefit levels whenever they believe that the FAP budget calculation is incorrect. BAM 600, p. 5. Petitioner requested a hearing to challenge her FAP benefit rate on October 5, 2023. Prior to that time, the last determination that MDHHS made regarding Petitioner's FAP benefits was in May 2023. The Request for Hearing was not filed by the 90-day deadline to challenge the May determination. BAM 600, p. 6. Therefore, this Hearing Decision will address Petitioner's FAP benefit rate from October 5, 2023 ongoing, because Petitioner has the right to challenged her current FAP benefit level.

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.

At the hearing, MDHHS testified that it was budgeting earned income for Petitioner based on historical data, and that Petitioner was no longer receiving earned income. Petitioner testified that she had not received earned income since 2021. After receiving the Request for Hearing, MDHHS removed the earned income and issued a Notice of Case Action on October 20, 2023, indicating that Petitioner's FAP benefit rate increased to \$136.00 per month for a household of one, beginning November 1, 2023 (Exhibit A,

p. 9). However, a review of that notice demonstrates that MDHHS was still budgeting earned income for Petitioner in the amount of \$258.00 (Exhibit A, p. 10). MDHHS could not adequately explain how it calculated that amount at the hearing or provide a justification for including earned income in Petitioner's budget. Petitioner testified that she did not receive any earned income. Given this discrepancy, MDHHS failed to demonstrate that it properly calculated Petitioner's FAP benefit rate.

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 MDHHS did not act in accordance with Department policy when it determined Petitioner's FAP benefit rate.

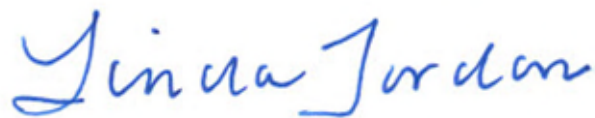
DECISION AND ORDER

Pursuant to the withdrawal of Petitioner's Request for Hearing, the matter involving Petitioner's MA coverage is **DISMISSED**.

MDHHS' decision is regarding Petitioner's FAP benefit rate is **REVERSED**.

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. Redetermine Petitioner's eligibility for FAP benefits, effective October 5, 2023 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from October 5, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



LJ/nr

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 :

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