



GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

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

Date Mailed: November 29, 2023
MOAHR Docket No.: 23-007147
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 22, 2023, via conference line. Petitioner was present with her daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Malak Fawaz. Also present was Arabic Interpreter, Abeer Sidhom.

ISSUES

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

Did the Department properly determine Petitioner's Food Assistance Program (FAP) 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. Petitioner and her husband were ongoing FAP and MA recipients.
2. On July 24, 2023, Petitioner completed a redetermination related to her FAP and MA programs (Exhibit A, pp. 19-22).

3. Petitioner's husband had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) income in the gross amount of \$■■■■ per month (Exhibit A, pp. 42-44).
4. Petitioner had unearned income in the form of RSDI benefits in the gross amount of \$■■■■ per month (Exhibit a, pp. 39-41).
5. Petitioner's husband had income from employment (Exhibit a, pp. 33-35).
6. On October 25, 2023, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$■■■■ per month (Exhibit A, pp. 45-49).
7. On October 25, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits under the limited coverage Plan First Program and Petitioner's husband was approved for MA benefits with a monthly deductible of \$1,174 (Exhibit A, pp. 52-55).
8. Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, as a result of a redetermination, Petitioner's FAP eligibility was reviewed. The Department determined Petitioner was eligible for FAP benefits in the monthly amount of \$■■■■. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 30-31).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department 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 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2020), pp. 6-7.

Per the budget provided, the Department determined that Petitioner had monthly earned income in the amount of \$[REDACTED]. The Department presented pay statements from Petitioner's husband's income from employment which showed Petitioner's husband was paid \$[REDACTED] in gross earned income on a biweekly basis. Petitioner's biweekly income multiplied by the 2.15 multiplier results in a standard monthly income amount of \$[REDACTED]. Therefore, the Department correctly determined Petitioner's household earned income.

The Department also included \$[REDACTED] in unearned income in Petitioner's FAP budget. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28. The Department presented Petitioner's and her husband's State Online Query (SOLQ) reports showing Petitioner receives \$[REDACTED] in gross RSDI benefits and her husband receives \$[REDACTED] in gross RSDI benefits per month. Therefore, the Department properly determined the household unearned income amount.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2022), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$241. Petitioner's FAP benefit group size of two justifies a standard deduction of \$198. RFT 255 (October 2022), p. 1. There was no evidence presented that Petitioner had any out-

of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$275, the Department stated that it considered Petitioner's verified housing expense of \$560.76 and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$680. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$275 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$275 excess shelter deduction results in a net income of \$[REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$[REDACTED]. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

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.

In this case, Petitioner was an MA recipient under the full-coverage Healthy Michigan Plan (HMP) program. After the redetermination, the Department determined that Petitioner was only eligible for MA benefits under the limited coverage Plan First program.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM

500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner was married, filed taxes and did not claim any dependents. Therefore, for HMP purposes, she has a household size of two. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2023 for a household with two members is \$27,214. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,677. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$27,214 annually or \$1,677 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

As stated above, Petitioner's husband is paid \$[REDACTED] on a biweekly basis. Petitioner husband did not have any withholdings for insurance or retirement savings. Therefore, Petitioner's MAGI based earned income was \$[REDACTED]. Also, Petitioner and her husband had unearned income in the amount of \$[REDACTED] per month. Petitioner's total household monthly income was \$[REDACTED], which exceeds the income limit for his group size under the HMP program. Therefore, the Department acted in accordance with policy when it determined Petitioner's MA eligibility.

As a result of the redetermination, the Department also reviewed Petitioner's husband's MA eligibility. The Department determined Petitioner's husband was eligible for MA benefits subject to a monthly deductible of \$1,174.

As a disabled and/or aged individual, Petitioner's husband is eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. As stated above, Petitioner's household income was \$2,287. As Petitioner and her husband are married, per policy, Petitioner's husband's fiscal group size for SSI-related MA benefits is two. BEM 211 (January 2016), p. 8. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a two-person MA group is \$1,663.50. RFT 242 (April 2023), p. 1. Because the monthly household income exceeds \$1,663.50, the Department properly determined Petitioner's husband to be ineligible for MA benefits under AD-Care.

Petitioner's husband may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner's husband is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner's husband may still receive MA benefits subject to a monthly deductible through the G2S program. G2S is an SSI-related MA category. BEM 166 (April 2017), p.1. As stated above, Petitioner's husband's SSI-related MA group size is two. The group's net unearned income is \$[REDACTED] (Petitioner's and her husband's gross RSDI reduced by a \$20 disregard). BEM 541 (April 2017), p. 3. When determining earned income for MA cases, the Department does not average income. BEM 530 (July 2017), pp. 2-4. Therefore, the Department properly determined Petitioner's husband's earned income was \$[REDACTED] based on the pay statements that were received, as stated above. The Department also properly applied the \$65 plus ½ of the fiscal group's remaining earnings disregard. BEM 541, p. 3. Thus, the Department properly determined the household net earned income was \$[REDACTED]. The household's total net income was properly determined to be \$[REDACTED].

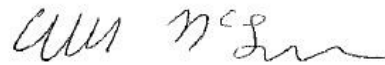
The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which he resides. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's husband's position, with an MA fiscal group size of two living in [REDACTED] County, is \$500 per month. RFT 200, p. 3; RFT 240, p. 1. Thus, if Petitioner's husband's wife's monthly net income (less allowable needs deductions) is in excess of \$500, he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that their monthly net income, less allowable deductions, exceeds \$500. BEM 545 (January 2017), pp. 2-3. The Department presented an SSI-related MA budget showing the calculation of Petitioner's husband's deductible (Exhibit A, p. 38).

In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. In this case, there was no evidence that Petitioner's husband resides in an adult foster care home or home for the aged. Therefore, he was not eligible for any remedial service allowances. There was evidence that Petitioner's husband's Medicare Part B premium was paid by the State of Michigan. Therefore, the Department acted in accordance with policy when it did not provide Petitioner's husband with an insurance deduction. Petitioner's husband's net income of \$ [REDACTED] reduced by the \$500 PIL is \$ [REDACTED]. Therefore, the Department properly determined that Petitioner's husband was eligible for MA benefits under the G2S program subject to a monthly deductible of \$1,174.

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 acted in accordance with Department policy when it determined Petitioner's and Petitioner's husband's FAP and MA eligibility. Accordingly, the Department's decisions are **AFFIRMED**.

EM/tm



Ellen McLemore
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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