



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], MI [REDACTED]

Date Mailed: December 20, 2023
MOAHR Docket No.: 23-007701
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 23, 2023, Petitioner, [REDACTED] requested a hearing to dispute his Medical Assistance (MA) eligibility and his Food Assistance Program (FAP) benefit amount. As a result, a hearing was scheduled to be held on December 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's authorized representative, Darlene Moore, appeared and represented Petitioner. Respondent, Department of Health and Human Services (Department) had Lindsay Richardson, Lead Worker, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 101-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.
4. Petitioner has Medicare coverage, and Petitioner's Part B Medicare premium is covered by Medicare Savings Program coverage.
5. Petitioner lives in a group home. Petitioner pays \$527.00 per month for rent, and Petitioner is responsible for paying for utilities (including heating/cooling). Petitioner also pays \$200.00 per month for personal expenses.
6. On October 30, 2023, the Department processed Petitioner's Mid-Certification. The Department determined that Petitioner's FAP benefit amount was \$23.00 per month. The Department mailed Petitioner a notice of case action to notify Petitioner that he was eligible for a \$23.00 monthly FAP benefit effective December 1, 2023.
7. On November 2, 2023, the Department mailed Petitioner a notice of case action to notify Petitioner that he was eligible for a \$48.00 monthly FAP benefit effective December 1, 2023. The increase was due to the Department adding a deduction for a Medicare Part B premium. The Department added the Medicare Part B premium because his Medicare Savings Program coverage closed on his SSI case. However, Petitioner obtained Medicare Savings Program coverage on a new case when a new case was opened after his SSI case closed, so the FAP benefit increase will be temporary.
8. On November 2, 2023, the Department mailed Petitioner a health care coverage determination notice to notify Petitioner that he was eligible for full coverage MA effective September 1, 2023, and Medicare Savings Program coverage effective December 1, 2023.
9. Petitioner provided proof of medical expenses to the Department, and the Department determined that Petitioner pays an ongoing expense of \$100.00 per month for attendant care. The Department determined that was Petitioner's only ongoing medical expense that was medically necessary. Petitioner provided proof of other medical expenses that were not ongoing, and the Department used those expenses for the month in which they were incurred.
10. The Department added medical bills for December and recalculated Petitioner's FAP benefit amount for December. The Department determined that Petitioner was eligible for the maximum FAP benefit amount (\$291.00) for a group size of one for the month of December.
11. Petitioner requested a hearing to dispute Petitioner's MA and FAP benefit amount, but Petitioner is satisfied with the Department's MA eligibility determination, so Petitioner is only disputing the 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 requested a hearing to dispute the Department's MA eligibility determination, but Petitioner is now satisfied with the Department's MA eligibility determination, so Petitioner is no longer disputing Petitioner's MA. Petitioner has full coverage MA and Medicare Savings Program coverage. Since Petitioner is no longer disputing the Department's MA eligibility determination, and since Petitioner has full coverage MA and Medicare Savings Program coverage, I will not address the MA dispute.

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.

Petitioner requested a hearing to dispute his FAP benefit amount. The Department determined that Petitioner was eligible for the maximum FAP benefit amount for a group size of one for the month of December. Thus, Petitioner cannot obtain a higher FAP benefit amount for December. Therefore, the issue is whether the Department properly determined Petitioner's ongoing FAP benefit amount. The most recent notice of case action that the Department issued to Petitioner regarding the FAP benefit amount was issued on November 2, 2023, and it notified Petitioner that his ongoing FAP benefit amount was \$48.00 per month.

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, 2023), and RFT 260 (October 1, 2023). 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 \$527.00, Petitioner's ongoing medical expense of \$100.00 per month, and Petitioner's obligation to pay utilities (including heating/cooling), Petitioner's net income is [REDACTED] per month. The Medicare Part B premium was not deducted because Petitioner has Medicare Savings Program coverage that will pay his Medicare Part B premium. Petitioner's \$200.00 per month expense for personal expenses is not an allowable deduction, so it was not considered. Based on Petitioner's net income of [REDACTED] per month and Petitioner's group size of one, the maximum FAP benefit amount that Petitioner is eligible for is \$23.00 per month.

The Department determined that Petitioner was eligible for a FAP benefit amount of \$48.00 per month, which is greater than the amount determined here, so the Department's determination will be affirmed. However, the Department also testified that Petitioner's FAP benefit amount will be reduced to \$23.00 per month effective January 1, 2024, when the Medicare Part B premium deduction is removed. The reduction to \$23.00 per month effective January 1, 2024, is correct.

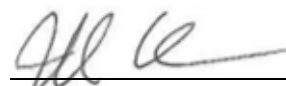
Since Petitioner's ongoing FAP benefit amount is less than the maximum FAP benefit amount for Petitioner's group size, Petitioner could increase his FAP benefit amount by providing proof of allowable medical expenses to the Department. Expenses that are not ongoing can only increase the FAP benefit amount for the month the expense was incurred. Expenses that are ongoing could increase the ongoing FAP benefit amount. Only allowable medical expenses can be used. BEM 554 at p. 8-12. Petitioner must provide verification that the medical expense has been incurred (not paid) to the Department so that the Department can consider the medical expense. Verification includes receipts, bills, insurance statements, a completed medical needs form signed by a licensed health care professional, and written statements from licensed health care professionals. *Id.* at p. 13. It is Petitioner's responsibility to provide verification of medical expenses to the Department.

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 Food Assistance Program benefit amount.

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

JK/ml



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

Lindsey Richardson, Eaton County DHHS
1050 Independence Blvd
Charlotte, MI 48813

MDHHS-Eaton-County-Hearings@michigan.gov

Interested Parties

BSC2
M Schaefer
EQAD
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

Darlene Moore
4942 Dimond Way
Dimondale, MI 48821

Petitioner

[REDACTED]
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