



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], MI [REDACTED]

Date Mailed: December 15, 2023
MOAHR Docket No.: 23-007731
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on December 7, 2023. Petitioner appeared and was represented. During the hearing, Petitioner authorized her daughter, [REDACTED] to be her authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Jessica Bock, specialist.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for cash assistance.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The third issue is whether MDHHS properly determined Petitioner's Medical Assistance (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 an unspecified date before [REDACTED] 2022, Petitioner applied for SER.
2. On November 15, 2022, MDHHS sent Petitioner a denial notice for SER.

3. As of November 2023, Petitioner was an ongoing recipient of FAP and MA benefits. Petitioner also received Medicare benefits from the Social Security Administration.
4. On [REDACTED] 2023, Petitioner applied for FAP, MA, and cash benefits and reported a household including no other persons. Petitioner also reported she was not pregnant or a caretaker to minor children.
5. As of November 2023, Petitioner was a disabled individual receiving monthly gross Retirement, Survivors, Disability Insurance totaling \$1,476.
6. As of November 2023, Petitioner had no child support or dependent care expenses. Petitioner had monthly medical expenses between \$35 and \$200.
7. As of August 2023, Petitioner had \$900 in housing expenses and a responsibility for heating and/or cooling utilities.
8. On November 6, 2023, Petitioner requested a hearing to dispute the amount of FAP benefits, an anticipated denial of cash benefits, and a determination of MA benefits. Petitioner also disputed SER eligibility.
9. On November 7, 2023, MDHHS denied Petitioner cash assistance due to excess income.
10. On November 14, 2023, MDHHS determined Petitioner was eligible for \$264 in monthly FAP benefits beginning December 2023.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing, in part, to dispute SER eligibility. Exhibit A, pp. 3-4. During the hearing, it was not disputed that Petitioner had not applied for SER benefits in 2023. MDHHS credibly testified Petitioner last applied in 2022 and was sent a denial notice on November 15, 2022. Exhibit A, pp. 7-9. For programs other than FAP benefits, clients must request hearings within 90 days of the written notice mailing. BAM 600 (March 2021) p. 6. Because Petitioner requested a hearing to dispute SER 356 days after written notice was sent, Petitioner's hearing request concerning SER was untimely and is properly dismissed.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin

Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a denial of cash benefits. Exhibit A, pp. 3-4. Petitioner applied for cash assistance on [REDACTED] 2023. Exhibit A, pp. 10-23. A Notice of Case Action dated November 7, 2023, stated that Petitioner was ineligible for cash assistance due to excess income. Exhibit A, pp. 23-26.

MDHHS offers two types of cash assistance programs. The Family Independence Program (FIP) provides financial assistance to families with dependent children. BEM 100 (October 2018) p. 1. SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. *Id.*, p. 5. As Petitioner was neither pregnant nor a caretaker of minor children, Petitioner was only potentially eligible to receive SDA benefits.

To receive SDA, the certified group must be in financial need to receive benefits. BEM 515 (October 2018) p. 1. Need is determined to exist when budgetable income is less than the payment standard established by MDHHS. *Id.* The payment standard is the maximum benefit amount that can be received by the benefit group. *Id.* Income is subtracted from the payment standard to determine the grant amount. *Id.*

Petitioner received monthly gross RSDI of \$1,476. For SDA, MDHHS counts the gross amount of RSDI benefits as unearned income. BEM 503 (April 2021) p. 29. Thus, Petitioner's \$1,476 in monthly gross RSDI is countable in the SDA budget.

It was not disputed that Petitioner was unmarried. The SDA payment standard for an unmarried person is \$200. RFT 225 (December 2013) p. 1. Petitioner's countable income of \$1,476 exceeds the SDA payment standard of \$200.¹ Thus, MDHHS properly denied Petitioner's application for cash assistance due to excess income.

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute FAP benefits of \$189 per month. Exhibit A, pp. 3-4. A Notice of Case Action dated November 14, 2023, stated that Petitioner was eligible to receive \$264 in monthly FAP benefits beginning December 2023.² Exhibit A, pp. 35-41. Despite the increase, Petitioner still disputed FAP eligibility.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and

¹ An SDA budget verified that MDHHS factored a smaller income (thus, a more favorable income for Petitioner) of \$1,127 to determine Petitioner's SDA eligibility. Exhibit A, p. 27.

² Petitioner was additionally awarded a supplement of \$64 for October 2023.

relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget verifying how it calculated Petitioner's net income. Exhibit A, pp. 31-34. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including only Petitioner. Petitioner agreed her benefit group size should be one.³

Petitioner received gross monthly RSDI benefits of \$390 and \$1,086. Exhibit A, pp. 42 and 43. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Petitioner had no other income. For FAP benefits, Petitioner's countable income is \$1,476.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. BEM 554 (October 2022) p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

It was not disputed that Petitioner was a disabled individual; thus, medical expenses may be counted. Petitioner acknowledged having at least \$35 in medical expenses, but no more than \$200 in monthly medical expenses. Thus, Petitioner is eligible for the SMD of \$165. Petitioner acknowledged having no child support or dependent care expenses. Petitioner's non-shelter expenses are \$165.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$198) and countable non-shelter expenses (\$165) from Petitioner's group's countable income (\$1,476) results in an adjusted gross income of \$1,113.

MDHHS credited Petitioner with monthly housing expenses of \$900. Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁴ Adding

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,580.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$1,024 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$89 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁵ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for December 2023 is \$264: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning December 2023.

The 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 the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner lastly requested a hearing to dispute a determination of MA eligibility. Exhibit A, pp. 3-4. Budget documents indicated that Petitioner was eligible for Medicaid subject to a monthly deductible of \$1,048 as of November 2023.

Medicaid is also known as MA. BEM 105 (January 2021) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of the disputed benefit month, Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given Petitioner's circumstances, she is ineligible for all MAGI-related categories. As a disabled and/or

⁵ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

aged individual, Petitioner is potentially eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care).

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

As of the disputed benefit month, Petitioner received gross monthly income of \$1,476. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁶ BEM 503 (January 2023) p. 29. Petitioner's countable income for AD-Care is \$1,476.

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019) p. 29. Petitioner did not allege any relevant budget expenses or credits.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard results in countable income of \$1,456.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2023, the annual federal poverty level for a 1-person group in Michigan is \$14,580.⁷ Dividing the annual amount by 12 results in a monthly income limit of \$1,215. The same income limit is found in policy.⁸ RFT 242 (April 2023) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. *Id.* Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 MA category.

⁶ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

⁷ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁸ MDHHS policy lists an income limit of \$1,235 while noting that the \$20 disregard is already factored.

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁹ BEM 545 (April 2018), p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

Petitioner's gross countable income of \$1,476 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner did not allege any relevant budget credits.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL and \$20 disregard from Petitioner's countable income results in a monthly deductible of \$1,048 (dropping cents): MDHHS calculated the same deductible. Exhibit A, p. 29. Thus, MDHHS properly determined Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute SER eligibility stemming from a denial notice dated November 15, 2022. Concerning SER, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's MA eligibility beginning November 2023 and FAP eligibility beginning December 2023. MDHHS also properly denied Petitioner's cash benefit application dated November 3, 2023. Concerning, FAP, MA, and cash benefits, the actions of MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁹ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

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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