



GRETCHEN WHITMER  
GOVERNOR

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

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ACTING DIRECTOR

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

Date Mailed: December 28, 2023  
MOAHR Docket No.: 23-007957  
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 December 19, 2023 via teleconference. Petitioner appeared and represented himself. Sonya Baker, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUES**

1. Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?
2. Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA)?

### **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 recipient of FAP benefits and MA coverage.
2. On October 5, 2023, Petitioner submitted a renewal for FAP and MA (Exhibit A, p. 20). Petitioner reported receiving Retirement, Survivors and Disability Insurance (RSDI) income and reported various expenses (Exhibit A, p. 21).

3. On October 6, 2023, Petitioner submitted a change report, indicating that he paid Medicare premiums (Exhibit A, p. 27).
4. On October 14, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that he was approved for \$██████ per month in FAP benefits, effective November 1, 2023 ongoing (Exhibit A, p. 36).
5. On October 14, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that he was approved for Plan First, a limited MA coverage category, effective April 1, 2023 ongoing, and that he was approved for MA with a \$1,847.00 deductible, effective November 1, 2023 ongoing (Exhibit A, p. 30).
6. On November 14, 2023, Petitioner filed a Request for Hearing regarding his FAP and MA benefits (Exhibit A, pp. 3-6).

### **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).

#### **The Food Assistance Program (FAP)**

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 the calculation of his FAP benefit rate. MDHHS determined that Petitioner was eligible for \$██████ per month in FAP benefits, beginning November 1, 2023.

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. For Retirement, Survivors, Disability Insurance (RSDI) income, MDHHS counts the gross amounts as unearned income. BEM 503 (January 2023), pp. 29-30.

MDHHS determined that Petitioner received \$██████ per month in RSDI (Exhibit A, p. 56). Petitioner did not dispute this amount. Because Petitioner received the RSDI

payment monthly, there was no need to standardize the amount further. There was no evidence of any other income available to Petitioner. Therefore, MDHHS properly determined that Petitioner's unearned income was \$2,407.00 based on his RSDI income.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, or court-ordered child support. However, Petitioner reported, and the record reflects, that Petitioner was paying an insurance premium of \$164.90 for Medicare Part B (Exhibit A, pp. 49-50). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for the SDV person(s) is entitled to the Standard Medical Deduction (SMD). BEM 554, p. 9. The SMD is \$165.00. *Id.* If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. *Id.* Allowable medical expenses include Medicare premiums. BEM 554, pp. 10-11.

The record shows that MDHHS failed to budget Petitioner's ongoing medical expenses. Thus, 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 not act in accordance with Department policy when it determined Petitioner's FAP benefit rate.

### **Medicaid (MA)**

MA 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.

In this case, MDHHS determined that Petitioner was eligible for Plan First MA, a limited MA coverage category, and MA under the Group 2 Aged, Blind, Disabled (G2S) category with a monthly deductible of \$1,847.00, effective November 1, 2023 ongoing.

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *Id.* Plan First MA is a MAGI-related limited coverage MA category that covers services related to family planning and reproductive health. To be eligible for Plan First MA, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the Federal Poverty Level (FPL). BEM 124 (July 2023), p. 1. 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.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. MDHHS introduced a MA budget at the hearing, showing that it calculated Petitioner's net unearned income for MA as \$██████████ based on his receipt of RSDI in the amount of \$██████████ (Exhibit A, p. 61). MDHHS subtracted the \$20.00 disregard according to policy. BEM 541 (January 2023), p. 3. There was no evidence of other SSI-related MA income deductions.

Based on Petitioner's circumstances, he was potentially eligible for Ad-Care MA. The Ad-Care program is a group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL). *Id.* To be income eligible for this program, Petitioner's income would have had to be \$1,235.00 or less for a fiscal group-size of one. RFT 242 (April 2023), p. 1. Petitioner's income exceeded this amount and therefore, he was not eligible for Ad-Care MA. MDHHS alleged that Petitioner was eligible for G2S MA, which is an SSI-related Group 2 MA category. BEM 166, p. 1. MDHHS considers eligibility under this category only when eligibility does not exist under BEM 155 through 164, 170 or 171. *Id.* Income eligibility

exists for G2S MA when net income does not exceed the Group 2 needs in BEM 544. *Id.*, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible with a deductible, per BEM 545. *Id.* The deductible is equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, minus the applicable Group 2 MA protected income level (PIL). The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544 (January 2020), p. 1. The PIL for Wayne County, where Petitioner resides, for his one-person MA group, is \$375.00. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1.

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, no evidence was presented that Petitioner resided in an adult foster care home or home for the aged. Therefore, he was not eligible for any remedial service allowances. MDHHS deducted Petitioner's health insurance premium of \$164.90 to bring the countable income to \$[REDACTED] (Exhibit A, p. 61). Subtracting the PIL of \$375.00 equals \$[REDACTED]. Therefore, MDHHS properly determined that Petitioner was eligible for G2S MA with a monthly deductible of \$1,847.00 (dropping the cents).

Additionally, Petitioner was eligible for Plan First MA, because his annual income of \$[REDACTED] was less than 200% of FPL, or \$29,160.00. See ASPE, Poverty Guidelines, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (last accessed December 28, 2023). When determining eligibility for MAGI-related MA, MDHHS applies a 5% disregard if it is required to make someone eligible for MA. BEM 500, p. 5. The 5% disregarding is the amount equal to 5% of FPL, not a flat 5% disregard of the income. *Id.*


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 MDHHS acted in accordance with Department policy when it determined that Petitioner was eligible for G2S MA with a deductible and Plan First MA.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to the MA determinations and **REVERSED IN PART** with respect to the FAP benefit rate.

**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 FAP benefit rate, effective November 1, 2023 ongoing, taking into account Petitioner's verified medical expense(s);
2. Issue supplemental payments to Petitioner for any FAP benefits that he was eligible to receive, but did not, from November 1, 2023 ongoing; and
3. Notify Petitioner of its decision(s) in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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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**Petitioner**

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