

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]
[REDACTED], MI [REDACTED]

Date Mailed: January 12, 2024
MOAHR Docket No.: 23-008715
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 January 10, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Belita Howard, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) and 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 was an ongoing FAP and MA recipient.
2. In October 2023, Petitioner completed a redetermination related to her MA benefit case.
3. Petitioner was the sole member of her household.
4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance in the gross monthly amount of \$1,354 in November and December of 2023 (Exhibit A, p. 16).

5. Effective November 1, 2023, Petitioner was approved for FAP benefits in the amount of \$█.
6. Effective November 1, 2023, Petitioner was approved for MA benefits under the Group 2 SSI-related (G2S) MA category with a monthly deductible of \$926.
7. On December 1, 2023, 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, Petitioner was an ongoing FAP recipient. Petitioner completed a redetermination related to her MA case, which updated her FAP eligibility. The Department determined that Petitioner was eligible for FAP benefits in the amount of \$█. The Department presented a FAP budget to establish Petitioner's FAP benefit amount (Exhibit A, pp. 9-11).

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. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28.

Per the budget provided, the Department included \$1,354 in unearned income in Petitioner's FAP budget. The Department presented Petitioner's State Online Query (SOLQ) report showing that at the time of the FAP determination, her gross benefit amount was \$1,354. Therefore, the Department properly determined Petitioner's household income.

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.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$198. RFT 255 (January 2020), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Petitioner testified that she had out-of-pocket medical expenses but conceded that she did not submit verification of the expenses. Policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$335, the Department stated that it considered Petitioner's verified housing expense of \$233 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 \$335 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 \$1,156. Petitioner's adjusted gross income subtracted by the \$335 excess shelter deduction results in a net income of \$821. 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 \$█. 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.

The Department determined Petitioner was qualified for MA benefits under the Group 2-SSI-related (G2S) program, subject to a monthly deductible. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner receives \$1,354 per month in RSDI benefits. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (July 2019), p. 8. The Department gives AD-Care budget credits for employment income, and guardianship and/or conservator expenses. 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 2022), p. 2. The income limit for AD-Care for a one-person MA group is \$1,235. RFT 242 (April 2022), p. 1. Because Petitioner's monthly household income exceeds \$1,235, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

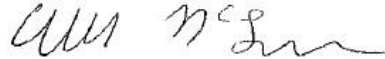
Petitioner may still receive MA benefits subject to a monthly deductible through a Group 2 Medicaid category. Petitioner is not the caretaker of any minor children, and therefore, does not qualify for MA through the Group 2-Caretaker MA program.

Petitioner 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 SSI-related MA group size is one. Petitioner's net income is \$1,334 (her gross RSDI reduced by a \$20 disregard). BEM 541 (January 2023), p. 3. 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, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Macomb County, is \$408 per month. RFT 200, p. 2; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$408, she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds \$408. BEM 545 (July 2022), pp. 2-3.

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 resides in an adult foster care home or home for the aged. Therefore, Petitioner is not eligible for any remedial service allowances. Petitioner was not entitled to the COLA exclusion (for January through March only) of \$115. Petitioner was also receiving Medicare Part B. There was evidence presented by the Department that the State of Michigan began paying Petitioner's Medicare Part B premium as of November 1, 2023. Therefore, Petitioner was not eligible for any insurance deductions. Petitioner's net income of \$1,334 reduced by the \$408 PIL is \$926. Therefore, the Department properly determined that Petitioner is eligible for MA benefits under the G2S program subject to a monthly deductible of \$926.

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 MA and FAP 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 :

DHHS

Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties

M. Holden
N. Denson-Sogbaka
B. Cabanaw
M. Schaefer
EQADHearings
BSC4

Via-First Class Mail :

Petitioner

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