



GRETCHEN WHITMER
GOVERNOR

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

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██████████, MI ██████████

Date Mailed: January 26, 2024
MOAHR Docket No.: 23-009140
Agency No.: ██████████
Petitioner: ██████████

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 January 17, 2024, via teleconference. Petitioner appeared and represented herself. Chauntay Moore and Latora Giles 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) coverage and Medicare Savings Program (MSP) benefits?

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, MA and MSP benefits.
2. On December 6, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that she was approved for FAP benefits at a rate of \$██████████ per month, beginning February 1, 2024 (Exhibit A, p. 19).

3. On December 6, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was eligible for full-coverage MA, from September 1, 2023 to December 31, 2023, and from January 1, 2024 ongoing (Exhibit A, p. 15). The notice further indicated that Petitioner was approved for MSP coverage for the month of October 2023, and January 1, 2024 ongoing (Exhibit A, p. 15). The notice stated that Petitioner was not eligible for MSP coverage from November 1, 2023 to December 31, 2023 because she had full MA coverage (Exhibit A, p. 15).
4. On December 11, 2023, Petitioner filed a Request for a Hearing to dispute MDHHS' determinations regarding her MA, MSP and FAP benefits (Exhibit A, pp. 4-6).

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, MDHHS determined that Petitioner was eligible for \$[REDACTED] in FAP benefits for a group-size of two, effective February 1, 2024 ongoing (Exhibit A, p. 19). Petitioner disputed the calculation of her FAP benefit rate.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS budgeted \$1,574.00 for Petitioner's unearned income, which represented her monthly Retirement, Survivors and Disability Insurance (RSDI) income. Petitioner did not dispute this amount and there was no evidence of other income. Accordingly, MDHHS properly determined that Petitioner's countable income was \$1,574.00.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), pp. 1-2. 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. 1-2; BEM 554 (October 2022), p. 1; BEM 556 (October 2022), pp. 1-7.

There was no evidence of earned income, dependent care expenses or court-ordered child support. MDHHS budgeted the standard deduction of \$198.00 for a group-size of two (Exhibit A, p. 20). Additionally, MDHHS budgeted \$359.00 in medical expenses for the household (Exhibit A, p. 20). An SDV group that has a verified one-time or ongoing medical expense of \$35.00 or more will receive the Standard Medical Deduction (SMD). BEM 554, p. 9. If the group has actual medical expenses which are more than the SMD, they have the option of verifying their actual expenses instead of receiving the SMD. *Id.*

To calculate Petitioner's Adjusted Gross Income (AGI), the standard deduction of \$198.00 and the medical deduction of \$359.00 were deducted from the countable income of \$1,574.00 to equal \$1,017.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction, MDHHS must consider Petitioner's verified housing expenses. MDHHS budgeted \$875.00 in housing expenses for Petitioner (Exhibit A, p. 20). Petitioner disputed this amount and testified that she informed MDHHS that she pays \$1,200.00 per month in rent. She further testified that she submitted rental receipts to MDHHS through MI Bridges, MDHHS' online, client-facing portal.

It is unclear from the record why MDHHS budgeted \$875.00 in housing expenses for Petitioner, instead of the \$1,200.00 per month that she reported paying in rent. When an eligibility factor is in dispute, MDHHS is required to verify the information and to give the client a reasonable opportunity to resolve any discrepancy. BAM 130 (October 2023), pp. 1, 9. No evidence was presented to show that MDHHS attempted to verify Petitioner's housing expenses, contrary to Department policy.

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 failed to satisfy its burden of showing that it acted 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

The Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP program that the client is income-eligible for. BEM 165 (October 2022), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

In this case, MDHHS' testimony at the hearing regarding Petitioner's MA and MSP coverage conflicted with the Health Care Coverage Determination Notice that it introduced as evidence at the hearing. At the hearing, MDHHS testified that Petitioner was approved for MA under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible of \$595.00, effective December 1, 2023 ongoing. MDHHS further testified that Petitioner was previously receiving MSP coverage, but that it was terminated, effective December 1, 2023 ongoing, for failure to verify checking account information. MDHHS did not demonstrate that Petitioner was given proper notice of these determinations, contrary to Department policy. See *generally*, BAM 220 (November 2023).

Regarding MSP coverage, MDHHS failed to demonstrate that it properly requested verifications from Petitioner and could not explain why verification of her checking account information was needed at the hearing. MDHHS testified that it was requested by a previous caseworker and did not provide further explanation. Petitioner credibly testified that she submitted the requested verifications months ago. MDHHS is required to request verification from clients when required by policy, or when information regarding an eligibility factor is unclear, incomplete or contradictory. BAM 130 (October 2023), p. 1. Because MDHHS could not provide a valid reason why the verification was necessary, it failed to show that it properly terminated Petitioner's MSP coverage for failure to return a required verification. Additionally, Petitioner's eligibility for MSP benefits affects her eligibility for MA benefits, as described in more detail below.

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

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.*

MDHHS determined that Petitioner was eligible for MA in the G2C category with a monthly deductible of \$595.00, effective December 1, 2023 ongoing. G2C MA is a Group 2 MA category available to parents and other caretaker relatives who meet all financial and non-financial criteria for the program in the month being tested. BEM 135 (October 2015), p. 1. Individuals are eligible for G2C MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 needs in BEM 544 and the MA protected income level (PIL), which is based on shelter area and fiscal group size. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 135, p 1, 3; BEM 544 (July 2016), p 1-3; BEM 545 (January 2019); RFT 200 (April 2017); RFT 240 (December 2013), p 1.

BEM 536 lays out a multi-step process for calculating an individual's net income for G2C. BEM 536 (July 2019), pp. 1-7. After determining the net income, MDHHS must use the Group 2 policies in BEM 544 and 545 to determine the monthly deductible. The determination requires a consideration of medical expenses including health insurance premiums. BEM 544 (January 2022), p. 1.

Given that MSP coverage was improperly terminated, Petitioner was responsible for paying her Medicare Part B premium. The proper calculation of Petitioner's monthly deductible amount for G2C MA is dependent on whether Petitioner is eligible for MSP coverage. MDHHS did not introduce a budget or adequately justify how it calculated Petitioner's deductible amount for G2C MA at the hearing.

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 did not act in accordance with Department policy when it terminated Petitioner's MSP coverage and determined Petitioner's eligibility for MA.

DECISION AND ORDER

Accordingly, MDHHS decisions are **REVERSED**.

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 February 1, 2024 ongoing, requesting additional verifications as necessary;
2. Issue Petitioner any supplemental FAP payments that she was eligible to receive, but did not, from February 1, 2024 ongoing;
3. Reinstate and redetermine Petitioner's eligibility for MSP benefits, effective December 1, 2023 ongoing;
4. If eligible, provide Petitioner with MSP benefits, from December 1, 2023 ongoing;
5. Redetermine Petitioner's eligibility for MA coverage, effective December 1, 2023, ongoing;
6. Provide Petitioner with the most beneficial MA coverage that she is eligible to receive, from December 1, 2023 ongoing; and
7. Notify Petitioner of its decisions in writing.



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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Denise Key-McCoggle
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Petitioner

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