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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: January 24, 2024  
MOAHR Docket No.: 23-009459  
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 22, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Specialist.

### **ISSUES**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

Did the Department properly close Petitioner's and Petitioner's husband's Medicare Savings Program (MSP) benefit cases?

### **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 recipient.
2. Petitioner and her husband were ongoing MSP benefit recipients.
3. On July 18, 2023, Petitioner completed a redetermination related to her FAP and MSP benefit cases (Exhibit A, pp. 7-9).

4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the gross amount of \$1,145.70 (Exhibit A, pp. 13-15).
5. Petitioner's husband had unearned income in the form of RSDI benefits in the gross amount of \$1,397.70 (Exhibit A, pp. 10-12).
6. Petitioner's household consisted of herself and her husband.
7. On September 30, 2023, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for FAP benefits in the amount of \$█ per month (Exhibit A, pp. 30-36).
8. On November 20, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her and her husband's MSP benefit cases were closing effective November 1, 2023, ongoing (Exhibit A, pp. 27-29).
9. On December 18, 2023, Petitioner submitted a request for hearing disputing the Department's actions related to her FAP and MSP benefit cases.

### **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.

Petitioner was an ongoing FAP recipient. In July 2023, Petitioner completed a redetermination related to her FAP benefit case. The Department determined that Petitioner was eligible for FAP benefits in the amount of \$█ per month. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 16-18).

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 \$2,544 in unearned income in Petitioner's FAP budget. The Department presented Petitioner's and Petitioner's husband's State Online Query (SOLQ) reports showing that Petitioner receives gross RSDI benefits in the amount of \$1,145.70 and Petitioner's husband received gross RSDI benefits in the amount of \$1,397.70 per month. 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 two 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. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

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). BEM 554 (April 2023), p. 9. The SMD is \$165. BEM 554, p. 9. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses. Policy provides the following example: Corbin has monthly medical expenses of \$235 and verifies the medical expenses. His expenses exceed the SMD, so he would receive a higher medical expense of \$200. ( $\$235 - \$35$ ) BEM 554, p. 9.

Per the budget provided, the Department provided Petitioner with a \$314 medical expense deduction. Petitioner and her husband are no longer eligible for MSP benefits, and therefore, are required to pay their monthly Medicare Part B premium of \$174.70. Petitioner and Petitioner's husband's Medicare Part B premium subtracted by the \$35 is \$314.40. Therefore, the Department properly determined Petitioner's medical expense deduction.

In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$120, and that she was entitled 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, which resulted in a deficit. Therefore, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

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 \$2,032. As Petitioner was not entitled to an excess shelter deduction, his net income is also \$2,032. 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.

## **MSP**

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.

In this case, Petitioner and her husband were ongoing MSP recipients. The Department sent Petitioner notice informing her that she and her husband were not eligible for MSP benefits. The Department testified that Petitioner and her husband exceeded the income limit for MSP benefits.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2018), p. 1. QMB is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 7-8.

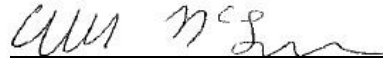
The Department testified that based on Petitioner's household income, she and her husband were not eligible for MSP benefits under any of the three categories. Effective April 1, 2023, for QMB, the monthly income limit for a group size of two is \$1,663.50, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 1. For SLMB the monthly income limit for Petitioner's group size of two is \$1,992, which is 120 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, p. 2. For ALMB, the monthly income limit for Petitioner's group size of two is \$2,238.50, which is 135 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242, pp. 1-3. RFT 242, p. 3.

As stated above, Petitioner's household income was \$2,544. Petitioner's household countable income exceeds the income limit for MSP benefits. Therefore, the Department acted in accordance with policy when it closed Petitioner's and Petitioner's husband's MSP benefit cases.

**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 FAP eligibility, and closed Petitioner's and Petitioner's husband's MSP benefit cases. 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**

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**Interested Parties**

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**Via-First Class Mail :**

**Petitioner**

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