



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], MI [REDACTED]

Date Mailed: February 13, 2024
MOAHR Docket No.: 24-000141
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 February 7, 2024, via teleconference. Petitioner appeared and represented herself. Raven Douthard, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS introduced documentary evidence at the hearing, which was admitted as MDHHS Exhibit A, pp. 1-63.

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) and Medicare Savings Program (MSP) coverage?

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.
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 \$53.00 per month for a household of one, effective January 1, 2024 ongoing (Exhibit A, p. 11). The

determination represented a decrease in FAP benefits due to a change in Petitioner's unearned income and shelter expenses (Exhibit A, p. 12).

3. On December 8, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was eligible for MA with a monthly deductible of \$1,268.00, effective January 1, 2024 ongoing (Exhibit A, p. 5). The notice also indicated that Petitioner was not eligible for MSP coverage due to excess income, effective January 1, 2024 ongoing. MDHHS determined that Petitioner's annual income was \$ [REDACTED] (Exhibit A, p. 5).
4. On January 4, 2024, Petitioner requested a hearing to dispute MDHHS' determinations regarding her FAP benefits and MA coverage (Exhibit A, pp. 3-4).

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 FAP benefits at a rate of \$53.00 per month for a household of one, effective January 1, 2024 ongoing (Exhibit A, p. 11). Petitioner disputed the decrease in her FAP benefit rate.

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, and Disability Insurance (RSDI) income, MDHHS counts the gross amount as unearned income. BEM 503 (January 2023), pp. 29-30.

MDHHS determined that Petitioner's household received \$1,663.00 per month in RSDI. Petitioner did not dispute this amount. Because the RSDI payments were received 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 \$ [REDACTED] based on the household's 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. MDHHS budgeted the standard deduction for a household of one, which was \$198.00. RFT 255 (October 2023), p. 1.

For medical expenses, MDHHS budgeted \$0.00. However, MDHHS also determined that Petitioner was no longer eligible for MSP benefits, effective January 1, 2024. As described in more detail below, Petitioner's MSP benefits formerly covered her Medicare Part B premium. If Petitioner was no longer eligible for the coverage, she was responsible for paying a Medicare Part B premium, which is a deductible medical expense. BEM 554 (January 2024), p. 11. MDHHS' determination regarding MSP coverage affects her FAP benefit rate. Additionally, Petitioner disputed the amount that MDHHS budgeted for her shelter expenses, asserting that she paid \$685.00 in rent per month, rather than \$724.00. This discrepancy affects the calculation of Petitioner's excess shelter deduction. Thus, MDHHS has not shown that it properly calculated all applicable deductions when determining Petitioner's FAP benefit rate.

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. MA is also known as Medical Assistance.

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 category 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 determined that Petitioner was eligible for Group 2 Aged, Blind, Disabled (G2S) MA with a monthly deductible of \$1,268.00, effective January 1, 2024 ongoing, and ineligible for MSP, effective January 1, 2024 ongoing (Exhibit A, p. 5). MDHHS' determinations were based on Petitioner's Retirement, Survivors, and Disability Insurance (RSDI) income, which MDHHS budgeted as \$1,663.00 per month, beginning January 1, 2024 (Exhibit A, p. 61). MDHHS was previously budgeting Petitioner's RSDI income as \$1,611.00 as of December 2023 (Exhibit A, p. 36).

For MA, countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503 (January 2023), p. 30. Federal law requires the cost-of-living adjustment (COLA) increase received in January to be disregarded for these three months. *Id.* For all other months, countable RSDI is the gross amount for the month being tested. *Id.* For MSP, MDHHS is also required to disregard the COLA in the months of January, February, and March. BEM 165 (October 2022), p. 8. MDHHS must use the income limits for the preceding December. *Id.*

The record shows that MDHHS budgeted Petitioner's current RSDI income in January 2024 for MA and MSP eligibility. It should have disregarded the COLA increase and used Petitioner's RSDI from December 2023 for January, February, and March to determine MA and MSP eligibility. Thus, MDHHS has not shown that it properly budgeted Petitioner's RSDI income.

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 determined Petitioner's eligibility for MA and MSP.

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 eligible for MA and MSP benefits, effective January 1, 2024, ongoing;
2. Provide Petitioner with the most beneficial MA and MSP coverage that she is eligible to receive, from January 1, 2024, ongoing;
3. Redetermine Petitioner's FAP benefit rate, considering all applicable deductions, including medical expenses incurred, effective January 1, 2024, ongoing;
4. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from January 1, 2024, ongoing; and
5. Notify Petitioner of its decisions in writing.



LJ/nr

Linda Jordan
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

Jeanenne Broadnax
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Interested Parties

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Via-First Class Mail :

Petitioner

[REDACTED]
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