



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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DIRECTOR

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

Date Mailed: June 4, 2024
MOAHR Docket No.: 24-000930
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on May 30, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's and her spouse's Medical Assistance (MA) 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. On January 10, 2024, Petitioner submitted to MDHHS a Redetermination form reporting a household including her spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse").
2. As of February 2024, Petitioner and Spouse respectively received \$1,057 and \$1,596 in gross monthly Retirement, Survivors, Disability Insurance (RSDI): an increase of \$82 from 2023.

3. As of February 2024, Petitioner and Spouse received \$60 in annual dividends.
4. As of February 2024, Petitioner's benefit group had no day care or child support expenses; Petitioner and Spouse each had Medicare premium expenses of \$174.70.
5. As of February 2024, Petitioner's benefit group had monthly housing expenses of \$55.26 and a responsibility for heating and/or cooling costs.
6. On February 6, 2024, MDHHS determined Petitioner to be eligible for \$23 in monthly FAP benefits beginning February 2024.
7. On February 6, 2024, MDHHS determined Petitioner and Spouse to be eligible beginning February 2024 for Medicaid subject to a monthly deductible of \$1,706.
8. On April 2, 2024, Petitioner requested a hearing to dispute FAP and MA eligibility.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated February 6, 2024, stated that Petitioner was eligible to receive \$23 in FAP benefits beginning February 2024. Exhibit A, pp. 48-52.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. The approval notice sent to Petitioner included a summary of all budget factors.¹ Exhibit A, p.49. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including only Petitioner and Spouse. Petitioner did not dispute the group size of two persons.²

¹ Budget documents indicating how FAP benefits were calculated were also presented. Exhibit A, p. 47.

² See BEM 212 for policies on determining group size for FAP benefits.

It was not disputed that Petitioner and Spouse respectively received \$1,057 and \$1,596 in gross monthly RSDI benefits. Exhibit A, pp. 31-35. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Combining the RSDI results in \$2,653 in countable unearned income.

Petitioner and/or Spouse also received \$60 in annual dividends. Exhibit A, p. 30. For FAP benefits, MDHHS counts interest and dividends paid directly to an individual as unearned income. BEM 503 (January 2023) p. 23. Dividing the annual dividends by 12 results in a monthly dividend income of \$5. Adding the income to the RSDI results in \$2,658 in total unearned income.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). 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) of \$165. *Id.* p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

Petitioner and Spouse each pay \$174.70 for Medicare Part B for a total of \$349 (dropping cents) in monthly medical expenses. After applying a copayment of \$35, Petitioner's group is left with \$314 in countable medical expenses. Petitioner's testimony acknowledged having no dependent care, child support, or additional medical expenses. Petitioner's total non-shelter expenses are \$314.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$198) and countable non-shelter expenses (\$314) from Petitioner's group's countable income (\$2,658) results in an adjusted gross income of \$

MDHHS credited Petitioner with monthly housing expenses of \$55.26. Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.³ Adding Petitioner's housing and utility credits results in total shelter expenses of \$735 (dropping cents)

³ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

MDHHS only credits FAP benefit groups with an “excess shelter” expense. The excess shelter expense is calculated by subtracting half of Petitioner’s adjusted gross income from Petitioner’s total shelter obligation. Petitioner’s excess shelter amount is \$0.

The FAP benefit group’s net income is determined by subtracting the excess shelter expense from the group’s adjusted gross income; doing so results in \$2,146 in net income for Petitioner’s group. A chart is used to determine the proper FAP benefit issuance.⁴ RFT 260 (October 2023) pp. 1-5. Based on Petitioner’s group size and net income, Petitioner’s proper FAP issuance for February 2024 is \$23: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner’s FAP eligibility beginning February 2024.

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a determination of MA eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated February 6, 2024, stated that Petitioner and Spouse were eligible for MA subject to a monthly deductible of \$1,706 beginning February 2024. Exhibit A, pp. 55-57,

Medicaid is also known as MA. BEM 105 (January 2024) p. 1. The MA program includes several sub-programs or categories. *Id.* 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.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

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.*

Petitioner submitted to MDHHS a Redetermination form on January 10, 2024. Exhibit A, pp. 8-15. As of the disputed benefit month, Petitioner and Spouse were disabled and/or aged, not pregnant, Medicare recipients, and not caretakers to minor children. Given Petitioner’s and Spouse’s circumstances, both are ineligible for all MAGI-related categories. As disabled and/or aged individuals, Petitioner and Spouse are potentially

⁴ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care).

MA categories are also split into categories of Group 1 and Group 2. BEM 105 (January 2024) p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* AD-Care is a Group 1 category. BEM 163 outlines the procedures for determining income eligibility under AD-Care.

At all relevant times, Petitioner and Spouse were married and without minor children. For purposes of AD-Care, Petitioner's and Spouse's group size is two. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner and Spouse received combined gross monthly RSDI of \$2,653. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁵ BEM 503 (January 2023) p. 29. Petitioner's and Spouse's countable RSDI for AD-Care is \$2,653.

Petitioner and/or Spouse received \$60 in annual dividends. Exhibit A, p. 30. For MA benefits, MDHHS counts interest and dividends paid directly to an individual as unearned income. BEM 503 (January 2023) p. 23. Dividing the annual dividends by 12 creates a monthly dividend income of \$5. Adding the dividend income to the RSDI results in \$2,658 in countable monthly unearned income.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3.

MDHHS gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2019) p. 29. MDHHS budgeted a COLA of \$82; Petitioner did not allege a higher COLA amount or any other relevant credits or expenses. Subtracting the unearned income disregard (\$20) and COLA (\$82) from the countable unearned income (\$2,658) results in countable income of \$ [REDACTED]

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 2-person group residing in Michigan is \$20,440.⁶ Dividing the annual amount by 12 results in a monthly income limit of \$1,703.50 (rounding to nearest half dollar). The same income limit is found in policy.⁷ RFT 242 (April 2024) p. 1. Petitioner's group's countable income exceeds the

⁵ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

⁶ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁷ MDHHS policy lists an income limit of \$1,723.50 while noting that the \$20 disregard is already factored.

AD-Care income limit. Thus, MDHHS properly determined Petitioner and Spouse to be ineligible for MA under the Group 1 MA category of AD-Care.

Though Petitioner and Spouse are ineligible for MA benefits under a Group 1 MA category, Petitioner and Spouse may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2024) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 MA category.

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁸ BEM 545 (July 2022) p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

Petitioner's group's gross countable income of \$2,658 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Petitioner and Spouse each paid Medicare premiums of \$174.70 resulting in a total cost of \$350 (rounding up to nearest dollar). MDHHS also credited Petitioner and Spouse with a COLA of \$82.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$500. RFT 240 (December 2013) p. 1.


Subtracting the PIL (\$500), insurance premiums (\$350), COLA (\$82) and \$20 disregard from Petitioner's group's countable income of \$[REDACTED] results in a monthly deductible of \$1,706. MDHHS calculated the same deductible for Petitioner and Spouse. Exhibit A, pp. 44-45. Thus, MDHHS properly determined Petitioner's and Spouse's MA eligibility.

⁸ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$23 in FAP benefits beginning February 2024. MDHHS also properly determined Petitioner and Spouse beginning February 2024 to be eligible for Medicaid subject to a monthly deductible of \$1,706. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
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 :

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