



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: March 8, 2024
MOAHR Docket No.: 24-000944
Agency No.: ██████████
Petitioner: █████ █████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 29, 2024, from Lansing, Michigan. █████ █████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Rachel Meade, Hearing Coordinator.

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-118.

ISSUE

Did the Department properly determine Petitioner’s household’s eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA)?

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 September █████ 2023, Petitioner applied for State Emergency Relief (SER), which triggered a review of MA and Medicare Savings Program (MSP) benefits. (Hearing Summary)
2. On September █████ 2023, a Verification Checklist was issued to Petitioner requesting verification of Petitioner’s spouse’s checking and savings accounts with a due date of September 29, 2023. (Exhibit A, pp. 1-2)

3. On September █ 2023, Petitioner submitted verification of a joint PNC bank account ending in █ (Exhibit A, pp. 3-6; Hearing Summary)
4. On October █ 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating her husband was not eligible for the MSP effective November 1, 2023 due to not turning in verification of his checking and savings accounts. (Exhibit A, pp. 7-10)
5. On October █ 2023, Petitioner submitted verification of a joint PNC bank account ending in █ (Exhibit A, pp. 11-14; Hearing Summary)
6. On October █ 2023, a Verification Checklist was issued to Petitioner requesting verification of checking and savings accounts with a due date of October 27, 2023. (Exhibit A, pp. 15-16)
7. On October █ 2023, Petitioner submitted verification of joint PNC bank accounts ending in █ and █ (Exhibit A, pp. 17-21; Hearing Summary)
8. On October █ 2023, Petitioner applied for MA and FAP as well as MSP benefits for her husband. All three programs were active at the time of application. (Exhibit A, pp. 22-30; Hearing Summary)
9. On October █ 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating her husband was eligible for the MSP under the SLMB category and that he would have a monthly deductible of \$█ effective November 1, 2023. (Exhibit A, pp. 31-36)
10. On November 29, 2023, Petitioner submitted verification of a joint PNC bank account ending in 9356. (Exhibit A, p. 37; Hearing Summary)
11. On December █ 2023, the Department reviewed Petitioner's case and confirmed the correct Retirement Survivors Disability Insurance (RSDI) income was being budgeted. (Exhibit A, pp. 38-42; Hearing Summary)
12. On January █ 2023, Petitioner submitted a Redetermination for FAP, MA, and MSP with verifications including the consumer's energy bill, PNC bank accounts ending in █ and █ her spouse's RSDI income, and property taxes for █. (Exhibit A, pp. 43-57)
13. On January █ 2024, the local Department office received a ticket resolution regarding Petitioner's spouse's MA. A Health Care Coverage Determination Notice was issued to Petitioner stating her husband was eligible for full coverage MA for the months of September and October 2023. (Exhibit A, pp. 58-61)
14. On January █ 2024, a Redetermination interview was completed with Petitioner for the FAP case. It was noted that Petitioner owns the home they are living in at █ and she owns the home her daughter lives in at █. (Exhibit A, pp. 62-69)

15. On January █ 2024, the Department received property record information for the █ property and regarding properties in Petitioner's spouse's name. (Exhibit A, pp. 70-76)
16. On January █ 2024, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective February 1, 2024 due to countable assets in excess of program limits. (Exhibit A, pp. 77-81)
17. On January █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating her husband's MSP benefits would close effective February 1, 2024, due to assets in excess of program limits. (Exhibit A, pp. 82-87)
18. On January █ 2024, a Verification Checklist was issued to Petitioner requesting verification of all properties in Petitioner and her husband's name with a due date of January 29, 2023. (Exhibit A, pp. 88-89)
19. On January █ 2024, the Department received property record and parcel information for the █ property. (Exhibit A, pp. 90-92; Hearing Summary)
20. On January 24, 2024, Petitioner filed a hearing request contesting the Department's determinations regarding MA and FAP. (Hearing Request)
21. Between January 31, 2024 and February 2, 2024, the local Department office communicated with the policy unit requesting clarification regarding jointly owned property. (Exhibit A, pp. 93-97)
22. On February 2, 2024, a Verification Checklist was issued to Petitioner requesting verification that her daughter lives at █ with a due date of February 12, 2024. A Quick Note was sent reiterating the verification request. (Exhibit A, pp. 98-102)
23. On February 2, 2024, Petitioner's FAP benefits were reinstated. (Hearing Summary)
24. On February 4, 2024, Petitioner submitted verifications including the city of Jackson utility bills, T mobile installment plan, and Consumer's energy bill. (Exhibit A, pp. 103-113; Hearing Summary)
25. On February █ 2024, a Benefit Notice was issued to Petitioner stating FAP benefits were approved effective February 1, 2024. (Exhibit A, pp. 115-118)
26. The Department received additional verifications. (Hearing Coordinator Testimony)
27. On February █ 2024, MSP benefits were reinstated for Petitioner's spouse effective February 1, 2024 under the SLMB category. MA benefits were also approved for Petitioner's spouse with a deductible of \$█ effective January 1, 2024. (Hearing Coordinator Testimony)

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) [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.

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 Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, October 1, 2023, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, October 1, 2023, p. 1.

The Department counts the gross benefit amount of Social Security Administration (SSA) issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. However, countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. For all other months countable RSDI is the gross amount for the month being tested. BEM 503, January 1, 2023, p. 30.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Jackson County is part of Shelter Area III, which has a PIL of \$475.00 for a group size of two. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus ½ of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2023, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

There are three categories that make up the MSP: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Medicare Beneficiaries (ALMB). Income is the major determiner of category. For QMB net income cannot exceed 100% of poverty. For SLMB net income is over 100% of poverty, but not over 120% of poverty. For ALMB net income is over 120% of poverty, but not over 135% of poverty. BEM 165, October 1, 2022, p. 1.

RFT 242 addresses the income limits for aged or disabled MA (MA-AD) and the MSP categories. Effective April 1, 2023, for a group size of two the income limit for MA-AD and QMB is \$1,663.50; for SLMB the income limit is \$1,663.50 to \$1,992.00; and for ALMB the income limit is \$1,992.00 to \$2,238.5. RFT 242, April 1, 2023, p. 1.

In calculating the FAP budget, the Department considers the gross benefit amount of Social Security Administration issued Retirement Survivors and Disability Insurance (RSDI) as unearned income. BEM 503, January 1, 2023, pp. 29-30.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, January 1, 2024, pp. 13-15. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy

Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, January 1, 2024, pp. 16-17. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554, January 1, 2024, p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, January 1, 2024, p. 22.

For FAP and SSI related MA, homes and real property are counted as assets. There is an exclusion for one homestead for an asset group. BEM 400, January 1, 2024, pp. 33-40. Jointly owned assets have more than one owner. An asset is unavailable if all the following are true, and an owner cannot sell or spend his share of an asset: without another owner's consent; the other owner is not in the asset group; and the other owner refuses consent. Further, for SSI-related MA, jointly owned real property is only excludable if it creates a hardship for the other owners. BEM 400, January 1, 2024, p. 12.

In this case, the as additional verifications were received and with policy clarifications, the FAP and MSP benefits were reinstated and MA was approved with a monthly deductible. Petitioner did not dispute the monthly RSDI income amount. Petitioner was concerned that the Department was counting additional address they do not have and have not in lived at in 20 years, at [REDACTED] This was a mobile home. (Exhibit A, p. 84; Petitioner Testimony). The hearing coordinator explained that was just an address that came up connected to his name from a property search. (Hearing Coordinator Testimony).

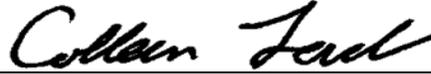
Overall, the evidence supports that the Department properly determined eligibility for Petitioner's household for FAP, MA, and the MSP once they received the policy clarification and additional verifications. There was no dispute regarding the amount of the household income. The Department is also excluding the second property where Petitioner's daughter, the co-owner of the property lives.

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 household's eligibility for FAP and MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/dm



Colleen Lack
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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Heather Dennis
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Via-First Class Mail :

Petitioner

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