



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 28, 2024
MOAHR Docket No.: 24-001472
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 on March 20, 2024. Petitioner participated and was represented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, supervisor.

ISSUE

The issue is whether MDHHS properly determined Petitioner'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 [REDACTED] [REDACTED] 2020, following a Food Assistance Program (FAP) application submission from Petitioner dated [REDACTED] [REDACTED] 2020, MDHHS mailed Petitioner notice of a FAP application denial.
2. As of January 2024, Petitioner was an ongoing recipient of MA benefits.
3. As of January 2024, Petitioner was disabled, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.

4. As of January 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$2,904.70: an increase of \$90 from 2023. Petitioner also reported to MDHHS monthly insurance premiums of no more than \$223.70.
5. As of January 2023, Petitioner received ongoing gross monthly wages of \$1,449.
6. On February 5, 2024, MDHHS determined Petitioner was eligible for MA benefits subject to a \$2,855 monthly deductible beginning March 2024. The notice additionally stated that Petitioner was ineligible for the MA category of Freedom to Work (FTW) due to not being employed and/or not being disabled.
7. On February 12, 2024, Petitioner requested a hearing to dispute the determination of MA benefits. Petitioner additionally disputed FAP eligibility from 2020.

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 FAP eligibility. Exhibit A, pp. 3-5. Petitioner last applied for FAP benefits on [REDACTED] 2020. It was not disputed that MDHHS denied Petitioner's application and sent notice to Petitioner on March 10, 2020.

Petitioner requested a hearing on February 12, 2024: 1,434 days after MDHHS sent written notice that Petitioner's application for FAP benefits was denied. A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. Given the evidence Petitioner's hearing request was untimely and there is no administrative hearing jurisdiction for Petitioner's dispute. Accordingly, Petitioner's hearing request concerning FAP benefits will be dismissed.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (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 5, 2024 stated that Petitioner was eligible for Medicaid beginning March 2024 subject to a monthly deductible of \$2,855. Exhibit A, pp. 6-11.

Medicaid is also known as MA. BEM 105 (October 2023) 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 was disabled and/or aged, at least 19 years of age, not pregnant, a Medicare recipient, and not a caretaker to minor children. Given the circumstances, Petitioner is ineligible for all MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA under the SSI-related category of Aged/Disability-Care (AD-Care).¹

MA categories are also split into categories of Group 1 and Group 2. *Id.*, 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.

As of the disputed benefit month, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (July 2019) p. 8.

As of January 2024, Petitioner received gross monthly RSDI of \$2,905 (rounding to nearest dollar). Exhibit A, pp. 14-15. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.² BEM 503 (January 2023) p. 29. 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. Subtracting the \$20 disregard results in countable income of \$2,885.

¹ The notice dated February 5, 2024 incorrectly stated that Petitioner was not eligible for AD-Care due to not being disabled.

² 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.

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. It was not disputed that Petitioner received \$1,449 in gross monthly employment income. Applying a \$65 and 50% disregard results in countable wages of \$692. Adding the wages results in a total countable income of \$[REDACTED]. For a March 2024 budget, Petitioner is entitled to credit for a \$90 COLA resulting in \$[REDACTED] in income.

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 1-person group in Michigan is \$15,060.³ Dividing the annual amount by 12 results in a monthly income limit of \$1,255.⁴ Petitioner's countable income exceeds the AD-Care income limit. Thus, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner 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 2023) 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 (see BEM 166).

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2019 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.*

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. COLA is also considered. Applying the same calculations from the AD-Care analysis results in \$3,487 in countable income. For G2S, Petitioner is additionally entitled to a credit for monthly insurance premiums which totaled \$224 (rounding up to nearest dollar).

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 \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$408) and insurance premiums (\$224) from Petitioner's countable income (\$3,487) results in a monthly deductible of \$2,855: the same deductible calculated by MDHHS.

³ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁴ RFT 242 lists an income limit based on the 2023 FPL.

The evidence established that MDHHS properly denied AD-Care. The evidence also established that MDHHS properly calculated Petitioner's G2S deductible. However, MDHHS did not consider Petitioner's potential eligibility under the less common MA category of FTW.

FTW is available to a client with disabilities age 16 through 64 who has earned income. BEM 174 (January 20220) p. 1. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. *Id.* All eligibility factors must be met in the calendar month being tested. *Id.*

A Health Care Coverage Determination Notice dated February 5, 2024, stated Petitioner was ineligible for FTW due to not being disabled or employed. Exhibit A, pp. 6-11. The evidence established that Petitioner was disabled and employed. Thus, MDHHS improperly denied Petitioner's MA eligibility under FTW. As a remedy, Petitioner is entitled to a reprocessing of FTW benefits.⁵

⁵ A reprocessing of FTW does not guarantee eligibility. Petitioner must still meet FTW requirements, in particular, income requirements.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute FAP eligibility. Concerning FAP benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be ineligible for Medicaid under AD-Care beginning March 2024 and subject to a \$2,855 monthly deductible under G2S. Concerning Medicaid under AD-Care and G2S, the actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to consider Petitioner's Medicaid eligibility under FTW. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's Medicaid eligibility beginning March 2024 subject to the finding that Petitioner is potentially eligible for the category of FTW due to being disabled and employed; and
- (2) Issue benefit supplements and notice, if any, in accordance with policy.

Concerning Medicaid under FTW, the actions taken by MDHHS are **REVERSED**.

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 :

DHHS

Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
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Interested Parties

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Via-First Class Mail :

Petitioner

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