



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: March 28, 2024
MOAHR Docket No.: 24-001576
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 February 29, 2024. Petitioner did not participate. [REDACTED]

[REDACTED] Petitioner's daughter, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

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 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 9, 2024, MDHHS received redetermination documents from Petitioner reporting a household with no other persons.
2. As of January 2024, Petitioner was disabled and/or at least 65 years old, a Medicare recipient, not a caretaker to minor children, unmarried, not employed, and not pregnant.

3. As of January 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,318 following an increase of \$41 from 2023 RSDI.
4. As of January 2024, Petitioner had no child support, dependent care, or medical expenses.
5. As of January 2024, Petitioner had monthly housing costs of \$106.77 and was responsible for a heating and/or cooling obligation.
6. On February 6, 2024, MDHHS determined Petitioner was eligible for \$23 in monthly FAP benefits beginning March 2024.
7. On February 6, 2024, MDHHS determined Petitioner to be eligible for the limited-coverage MA category of Plan First and eligible for full Medicaid but subject to a \$849 monthly deductible beginning March 2024.
8. On February 12, 2024, Petitioner's AHR requested a hearing over Petitioner's Medicaid and FAP 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. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR requested a hearing, in part, to dispute a Petitioner's FAP eligibility following a redetermination of benefits. Exhibit A, pp. 4-5. A Notice of Case Action dated February 6, 2024, stated Petitioner was approved for \$23 in FAP benefits beginning February 2024. Exhibit A, pp. 24-28

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income is based on group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing all FAP eligibility factors and calculations. Exhibit A, pp. 15-17 and 39. A budget summary from the approval notice also listed FAP budget factors. Exhibit A, p. 25. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner submitted to MDHHS redetermination documents on January 9, 2024 reporting a household with no other persons. Exhibit A, pp. 20-22. Accordingly, MDHHS factored a benefit group including only Petitioner.¹

It was not disputed that Petitioner received RSDI of \$1,318 as of February 2024. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Petitioner's RSDI of \$1,318 is countable in the FAP redetermination.

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: excess 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.*). For groups containing SDV members, MDHHS additionally considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s).²

It was not alleged that Petitioner had dependent care, child support, or medical expenses. The evidence established that Petitioner's group's non-shelter expenses were \$0.

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 (\$0) from the group's countable income (\$1,318) results in an adjusted gross income of \$1,120.

MDHHS credited Petitioner with monthly housing expenses of \$107 (rounding up to nearest dollar); Petitioner's AHR 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 \$787.

¹ See BEM 212 for policies on determining group size for FAP benefits.

² 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. BEM 554 (October 2022) 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.*

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 expenses are \$227.

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 \$893 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. Thus, 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner’s AHR also requested a hearing to dispute a change in MA eligibility. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated February 6, 2024, stated that Petitioner was eligible for the limited coverage MA category of Plan First.⁵ Exhibit A, pp. 32-35. The notice also stated that Petitioner was eligible for full Medicaid, though subject to a monthly deductible of \$849 beginning March 2024. *Id.*

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.*

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.

⁵ Plan First is a limited-coverage MA category available to any United States citizen or individual with a valid immigration status. BEM 124 (July 2023) p. 1. It is not considered to be “full coverage” because its coverage is limited to family planning services. (see Form DCH-2840-MSA)

MDHHS received redetermination from Petitioner on January 9, 2024 which reported that Petitioner was disabled and/or aged, not pregnant, a Medicare recipient, and not a caretaker to minor children. Exhibit A, pp. 20-22. 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).

MA categories are also split into categories of Group 1 and Group 2. BEM 105 (October 2023) p. 1. For Group 1 categories, 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 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 the disputed benefit month, Petitioner received gross monthly RSDI of \$1,318. Exhibit A, pp. 12-14. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.⁶ BEM 503 (January 2023) p. 29. For AD-Care, Petitioner's countable income is \$1,318.

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 Petitioner's RSDI results in countable income of \$1,298.

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. For the disputed benefit month, Petitioner is entitled to a COLA credit of \$41.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2023, the annual federal poverty level for a 1-person group in Michigan is \$15,060.⁷ Dividing the annual amount by 12 results in a monthly income limit of \$1,255.⁸ Petitioner's countable income exceeds the AD-Care income limit. Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First (see BEM 124). Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under AD-Care.

⁶ 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.

⁷ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁸ RFT lists an income limit based on the 2023 FPL.

Though Petitioner is ineligible for MA benefits under AD-Care or any other full-Medicaid 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 Medicaid if sufficient allowable medical expenses are incurred.⁹ 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 RSDI of \$1,318 is countable for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. COLA is also applicable for January, February, and March budget months. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. Applying the \$20 unearned income credit and \$41 COLA results in a running income total of \$1,257.

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 (see RFT 200) and group size is \$408. RFT 240 (December 2013) p. 1.

Subtracting the PIL (\$408) from Petitioner's countable income results in a monthly deductible of \$849; MDHHS calculated the same deductible. Exhibit A, p. 12. Given the evidence, MDHHS properly determined Petitioner's MA eligibility beginning March 2024.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP and MA eligibility beginning March 2024. The actions of MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

⁹ Clients should be fully aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

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
MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties

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Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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