



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: April 18, 2024
MOAHR Docket No.: 24-002399
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 April 8, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, hearings facilitator.

ISSUES

The first issue is whether MDHHS properly processed medical expenses towards Petitioner's Medical Assistance (MA) deductible.

The second issue is whether MDHHS properly processed medical expenses towards Petitioner's ongoing Food Assistance Program (FAP) 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. As of December 2023, Petitioner was an ongoing recipient of Medicaid subject to a monthly deductible.
2. As of December 2023, Petitioner received ongoing FAP benefits of \$291 based on an unspecified amount of medical expenses.

3. On February 5, 2024, MDHHS approved Petitioner for monthly FAP benefits of \$23 beginning March 2024 based on monthly medical expenses of \$924.
4. On February 26, 2024, Petitioner requested a hearing to dispute her medical expenses concerning FAP eligibility and meeting her monthly Medicaid deductible.
5. On February 28, 2024, Petitioner submitted to MDHHS documentation of medical expenses from January 2024 totaling approximately \$9,147.02.

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).

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 requested a hearing, in part, to dispute a reduction in FAP benefits. A Notice of Case Action dated February 5, 2024, stated that Petitioner's FAP eligibility was reduced to \$23 per month beginning March 2024 due to a change in budgeted medical expenses.¹ Exhibit A, pp. 5-9. The notice included a budget summary stating that the determination factored \$924 in monthly medical expenses. Exhibit A, p. 6.

Petitioner additionally requested a hearing disputing MA eligibility. Exhibit A, pp. 3-4. Petitioner testified that she received ongoing Medicaid subject to a monthly deductible of \$1,521. Petitioner did not seem to dispute that her MA eligibility was improperly calculated. Petitioner stated that until January 2024, MDHHS issued Medicaid based on Petitioner meeting her monthly deductible; Petitioner disputed that she did not continue meeting her deductible.²

Petitioner's FAP and MA disputes both concerned how MDHHS budgeted Petitioner's medical expenses. Thus, the analysis will consider the amount of medical expenses factored in Petitioner's ongoing FAP and MA eligibility.

¹ The notice also stated that Petitioner's excess shelter deduction changed. Excess shelter deductions are based, in part, on budgeted medical expenses (see BEM 556). Presumably, Petitioner's excess shelter changed only because of the change in medical expenses.

² Petitioner's testimony claimed that she met her deductible on January 4, 2024.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) p. 1. A FAP benefit group with a senior (over 60 years old), disabled or disabled veteran (SDV) member, is called an SDV group. For SDV groups, MDHHS considers the medical expenses of any SDV members. 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.*

Income eligibility for Medicaid exists for the calendar month tested when there is no excess income (i.e., a client is eligible for Medicaid) or allowable medical expenses equal or exceed the excess income (i.e., when submitted medical bills meet the monthly deductible). BEM 545 (July 2022) p. 3. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*, p. 11. Required verifications for medical expenses include the date that the expense was incurred. *Id.*, p. 11.

For medical expenses that are neither for personal care services, inpatient hospitalization, nor long-term care, MDHHS is to issue MA for the month being tested from the date that expenses exceed the deductible. *Id.*, pp. 4-5. However, the group must report expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*, pp. 11-12. Bills reported later would be old bills and not usable for the month that the medical expense was incurred. *Id.*, p. 2.

The evidence established that MDHHS budgeted \$924 in medical expenses in determining Petitioner's FAP eligibility. MDHHS applied the same amount towards Petitioner's MA deductible.

MDHHS presented no documentary evidence justifying that Petitioner had \$924 in monthly medical expenses. Thus, it cannot be stated that MDHHS properly determined Petitioner's FAP eligibility or that MDHHS properly did not issue Medicaid due to Petitioner not meeting a deductible. Given the limited evidence, Petitioner is entitled to a reprocessing of FAP and MA eligibility. It should be noted that it cannot be stated that MDHHS erred in the original determination. Petitioner did not present medical expenses submitted to MDHHS before requesting a hearing.³ Thus, it cannot be stated that MDHHS erred in determining FAP or MA eligibility.

³ Petitioner submitted proof of medical expenses to MDHHS on February 28, 2024. Exhibit A, pp. 12-25. The documents listed approximately \$9,147.02 in medical expenses from January 2024. MDHHS acknowledged that it still has not applied the expenses to Petitioner's FAP eligibility or MA deductible. Because Petitioner submitted proof of expenses after requesting a hearing, a dispute over the lack of processing cannot be applied in the present case. Petitioner can request another hearing if she disputes how MDHHS processes or failed to process the expenses.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to properly process medical expenses towards Petitioner's MA deductible beginning January 2024 and FAP eligibility beginning March 2024. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's submitted medical expenses towards Petitioner's MA deductible beginning January 2024 and FAP eligibility beginning March 2024;
- (2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

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-
Hearings@michigan.gov**

Interested Parties

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M. Holden
N. Denson-Sogbaka
B. Cabanaw
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Via-First Class Mail :

Petitioner

[REDACTED]
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