



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



Date Mailed: April 26, 2024  
MOAHR Docket No.: 24-003076  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on April 22, 2024. Petitioner appeared and was initially represented by their Authorized Hearing Representative (AHR), [REDACTED] as the hearing proceeded, Petitioner elected to represent himself. The Department of Health and Human Services (Department) was represented by Chantay Moore, Eligibility Specialist, and Latora Giles, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective January 1, 2024?

Did the Department properly determine Petitioner's Medicaid (MA) coverage effective April 1, 2024 ongoing?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a disabled individual and a recipient of Retirement, Survivors, and Disability Insurance (RSDI) benefits from the Social Security Administration (SSA).
2. Petitioner is an ongoing recipient of FAP benefits for a group of one.
3. Petitioner is unmarried.
4. Petitioner is an ongoing recipient of MA benefits under Plan First.

5. On January 12, 2024, the Department obtained verification of Petitioner's RSDI income through the State Online Query (SOLQ), which reported Petitioner's RSDI income to be [REDACTED] per month.
6. On January 12, 2024, Petitioner was certified for FAP benefits in the amount of \$23 per month, effective January 1, 2024. (Exhibit A, pp. 10 – 11).
7. On February 23, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (MA Notice) stating Petitioner was ineligible for Medicare Savings Program (MSP) due to failure to provide verifications. (Exhibit A, pp. 7 – 8).
8. On March 20, 2024, the Department received Petitioner's request for hearing in which Petitioner disputed closure of his MA benefits and denial and/or amount of FAP benefits.
9. On March 28, 2024, the Department sent Petitioner an MA Notice stating Petitioner was approved for MSP – Additional Low-Income Beneficiaries (ALMB), effective April 1, 2024. (Exhibit A, pp. 14 – 16).

### **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).

#### **Food Assistance Program**

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.

Petitioner disputes the amount of FAP benefits he is approved to receive. The Department testified that it approved Petitioner for \$23 per month in FAP benefits on January 12, 2024, effective January 1, 2024.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department begins by considering all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. For recipients of RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 29, 35. The

Department testified, and Petitioner confirmed, that Petitioner's current RSDI income is [REDACTED] per month.

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is disabled, he is considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (February 2024) p. 1; BEM 556 (March 2024) pp. 3 – 6.

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Groups of 1 to 3 receive a standard deduction of \$198 RFT 255 (October 2023). Because Petitioner was the sole member of his FAP group, the Department properly deducted \$198 from Petitioner's countable income, as shown on the net income budget provided by the Department. (Exhibit A, pp. 10 – 11).

Petitioner testified that he has no dependent care expenses and therefore, no deduction for that expense is reflected on the budget. SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. The Petitioner also testified that he did not provide proof of any out of pocket medical expenses in excess of \$35 to the Department, and therefore, the Department did not include a deduction for that expense either. (Exhibit A, pp. 10 – 11). Petitioner testified he has a child support obligation, and the Department properly included a deduction in the amount of \$70.50 in calculating Petitioner's benefit amount. (Exhibit A, pp. 10 – 11).

The last deduction available to Petitioner is the excess shelter deduction. Before determining the amount of this deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting the earned income deduction, standard deduction, dependent care expenses, medical expenses for SDV members, and court ordered child support payments made by a member of the group from the countable income. The Department properly determined each of the foregoing deductions for Petitioner; and therefore, properly determined Petitioner's AGI to be [REDACTED]

To calculate the excess shelter expense deduction, the Department reviews Petitioner's housing and utility expenses, if any. In this case, the net income budget reflects a deduction of \$123 for Petitioner's excess shelter deduction. Petitioner testified that he has no mortgage, pays property taxes for his housing, and pays all utilities. The Department testified that it used Petitioner's annual property taxes of \$870.36, which was an average of \$72.53 per month, for purposes of calculating Petitioner's excess shelter expense. This amount was more than Petitioner testified he believed his property taxes to be and therefore, beneficial to Petitioner.<sup>1</sup>

A FAP group that has heating and utility costs including cooling, separate from the rental payment, is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17. The h/u standard is the most favorable utility standard available to a client, and FAP groups that receive the h/u standard do not receive any other individual utility standards. BEM 554, p. 16. The standard amount is \$680. RFT 255. The Department used the amount of \$680 for h/u when calculating Petitioner's excess shelter expense. (Exhibit B, pp. 1 – 2).

Once Petitioner's housing and utility expenses have been determined, the Department adds those amounts together for a total shelter amount. The Department then subtracts 50% of Petitioner's AGI from the total shelter amount. This determines Petitioner's excess shelter deduction. In FAP groups with an SDV member, the excess shelter amount is not limited.

In Petitioner's case, the Department properly added together Petitioner's monthly \$72.53 property taxes and \$680 h/u standard to arrive at Petitioner's total shelter amount of \$753<sup>2</sup>. The Department subtracted 50% of Petitioner's AGI, in the amount of \$630, from the total shelter amount to determine Petitioner's excess shelter deduction to be \$123. (Exhibit B, pp. 1 – 2). The Department then subtracted the excess shelter deduction of \$123 from Petitioner's AGI of [REDACTED] which determined Petitioner's net monthly income, for purposes of FAP, to be [REDACTED] (Exhibit A, pp. 10 – 11). The Department's calculations were made consistent with policy.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table of RFT 260. Based on Petitioner's one person FAP group size and net income of [REDACTED] Petitioner's monthly benefit, beginning January 1, 2024 is \$23. RFT 260 (October 2023), p. 16. This is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating, based on the information available to it, Petitioner's monthly FAP allotment for January 1, 2024 ongoing.

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<sup>1</sup> Petitioner testified that he believes his average annual property taxes are approximately \$750.

<sup>2</sup> All cents are dropped.

## **Medicaid**

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.

Petitioner requested a hearing to dispute the closure of his MA coverage. At the hearing, the Department presented evidence to show that Petitioner had been approved for MA coverage with the monthly \$1,134 deductible starting April 2024. (Exhibit A, pp. 14 – 16). The Department determined that Petitioner was eligible for Plan First MA, a limited MA coverage category, and Group 2 Aged, Blind, Disabled (G2S) MA category, effective April 1, 2024 ongoing. The Department did not introduce an MA notice with this information at the hearing, however, the Department provided two MA EDG summaries confirming the information. (Exhibit A, pp. 12 – 13). At the hearing, Petitioner disputed the amount of the deductible he must meet before his MA is activated.

Ascertaining whether the Department properly determined each member's MA eligibility requires consideration of all MA categories. "Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share." BEM 105 (January 2024), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Because Petitioner receives RSDI based on a disability, is a Medicare recipient and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

Based on Petitioner's circumstances, he is potentially eligible for Ad-Care MA. The Ad-Care program is a Group 1, full-coverage SSI-related MA program for disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. Net income for Ad-Care MA cannot exceed 100% of the Federal Poverty Level (FPL). BEM 163, p. 1. Effective April 1, 2024, the monthly FPL for a fiscal group size of one, plus \$20, is \$1,275 (RFT 242 (April 2024), p. 1) and Petitioner's RSDI income of [REDACTED] exceeds this amount and therefore, he is not eligible for Ad-Care MA.

As a disabled individual with RSDI income with excess income for AD-Care, the next most beneficial category available to Petitioner is Group 2 Aged, Blind, and Disabled (G2S), which is an SSI-related MA category. BEM 166 (April 2017), p. 1. Individuals eligible for G2S may receive full coverage (no cost) or may be subject to a monthly deductible. BEM 166, p. 2. For full coverage, the individual's net income must not exceed the Group 2 needs as identified in BEM 544. BEM 166, p. 2. For purposes of MA, needs are the total amount of an individual's protected income level (PIL), health insurance premiums, and remedial services for individuals in adult foster care (AFC) or a home for the aged (HA). BEM 544 (January 2020), pp. 1 – 2.

The PIL is a set allowance for nonmedical need items such as shelter, food, and incidental expenses that is based on the county in which the client resides, and the client's fiscal MA group size. BEM 544, p. 1. The PIL for Wayne County, where Petitioner resides, for his one-person MA group, is \$375. RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1. Petitioner did not offer any evidence or testimony that he pays any health insurance premiums or requires remedial services. Therefore, Petitioner's needs, pursuant to BEM 544, are \$375.

For G2S, an individual's net income is calculated by first determining the individual's gross income. In this case, Petitioner's sole source of income is unearned RSDI income, which is counted in full. BEM 503, p. 29. Next, the Department must determine what deductions, if any, Petitioner was eligible for. Because Petitioner has no dependents and did not offer evidence that he works or has a guardian or conservator, he is only eligible for a \$20 disregard from his gross earnings. BEM 541 (January 2024), pp. 1 – 3. Therefore, Petitioner's RSDI of [REDACTED] minus \$20, equals a net income of [REDACTED].


Petitioner's net income of [REDACTED] is more than his needs of \$375. If net income exceeds the Group 2 needs, the individual will be subject to a monthly deductible in an amount equal to the amount the individual's net income minus the applicable Group 2 MA PIL. BEM 166, p. 2. The Department did not introduce a MA budget at the hearing; however, Petitioner's net income of [REDACTED] minus his PIL of \$375, equals [REDACTED]. This is the amount of Petitioner's deductible. The Department provided an MA EDG summary, which reflected that is calculated Petitioner's deductible amount to be \$1,134. (Exhibit A, p. 13). The amount reflected on the MA EDG summary is consistent with Department policy.

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 FAP benefits for January 2024 ongoing and that the Department acted in accordance with Department policy when it determined Petitioner's G2S MA deductible to be \$1,134 per month.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED** with respect to Petitioner's FAP benefits effective January 2024 and **AFFIRMED** with respect to Petitioner's G2S deductible.

CML/ml

  
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**Caralyce M. Lassner**  
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**

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**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

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

**Authorized Hearing Representative**

[REDACTED]  
[REDACTED]  
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