



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN
DIRECTOR

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Date Mailed: May 10, 2024
MOAHR Docket No.: 24-003576
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 May 2, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-21.

ISSUES

Is there jurisdiction to address the Food Assistance Program (FAP) portion of Petitioner's hearing request?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) program benefits?

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 June ██████ 2023, the Department issued a Notice of Case Action to Petitioner denying FAP benefits effective August 1, 2023. (Hearing Facilitator Testimony)
2. On October ██████ 2023, Petitioner was discharged from a long-term care (LTC) facility. (Exhibit A, pp. 3-5)

3. On October █ 2023 a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ effective December 1, 2023. (Exhibit A, pp. 6-9)
4. On February █ 2024, a mass update ended Retirement, Survivors, and Disability Insurance (RSDI) income for Petitioner effective February █ 2024 in error. (Exhibit A, pp. 1 and 10)
5. On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving full MA coverage effective March 1, 2024. (Exhibit A, pp. 11-13)
6. On March █ 2024, RSDI income was added back into Petitioner's MA case effective March 1, 2024. (Exhibit A, pp. 1 and 20)
7. On March █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ effective April 1, 2024. (Exhibit A, pp. 14-17)
8. On March 25, 2024, Petitioner filed a hearing request contesting the Department's denial determinations for MA and FAP. (Hearing Request, unnumbered pages)

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).

FAP

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction

in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2021), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Petitioner filed a hearing request on March [REDACTED] 2024 contesting a denial of FAP benefits. The Hearing Facilitator explained that the last action taken regarding FAP was a June [REDACTED] 2023, Notice of Case Action denying FAP benefits effective August 1, 2023. The Department has not received any application for FAP benefits for Petitioner since the June [REDACTED] 2023 denial notice was issued. (Hearing Facilitator Testimony).

Petitioner's March [REDACTED] 2024 hearing request was not timely filed to contest the June [REDACTED] 2023 denial determination. Further, there was no evidence that Petitioner had reapplied for FAP. Therefore, there has been no failure to act with reasonable promptness.

The FAP portion of Petitioner's March [REDACTED] 2024 hearing request is, therefore, **DISMISSED** for lack of jurisdiction.

MA

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. BEM 105, January 1, 2024, p. 1.

Plan First MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

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. Medicaid eligibility for

children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, 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, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, January 1, 2024, p. 1.

MA AD CARE is an SSI-related group 1 MA category. This category is available to persons who are aged or disabled (AD). Net income cannot exceed 100% of the poverty level. BEM 163, July 1, 2017, p. 1.

The Department counts the gross benefit amount of SSA issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department disregards the annual cost of living increase for RSDI for January, February, and March. 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. Calhoun County is part of Shelter Area IV, which has a PIL of \$375.00 for a group size of one. 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, 2024, 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.

RFT 242 addresses the income limit for aged or disabled MA (MA-AD). Effective April 1, 2023, for a group size of one the income limit for MA-AD is \$1,235.00. This reflects the income limit of 100 percent of the Federal Poverty Limit with the \$20.00 disregard for RSDI income. RFT 242, April 1, 2023, p. 1.

In this case, Petitioner was not eligible for MA-HMP because he is eligible for Medicare.

On October █ 2023, Petitioner was discharged from a long-term care (LTC) facility. (Exhibit A, pp. 3-5). The Department initially determined that Petitioner was eligible for MA-AD CARE with a monthly deductible of \$█ effective December 1, 2024. A Health Care Coverage Determination Notice was issued to Petitioner on October █ 2023. (Exhibit A, pp. 6-9).

On February █ 2024, a mass update ended RSDI income for Petitioner effective February █ 2024 in error. (Exhibit A, pp. 1 and 10). On February █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving full MA coverage effective March 1, 2024. (Exhibit A, pp. 11-13).

On March █ 2024, RSDI income was added back into Petitioner's MA case effective March 1, 2024. (Exhibit A, pp. 1 and 20). On March █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA with a monthly deductible of \$█ effective April 1, 2024. (Exhibit A, pp. 14-17).

At the time of the March █ 2024 determination, Petitioner's income from SSA issued RSDI benefits was \$█ monthly. (Exhibit A, p. 20). After the \$20.00 disregard and PIL of \$375.00 are considered, Petitioner has a monthly deductible of \$█ (Exhibit A, p. 19). There was no evidence that Petitioner had any of the other allowable deductions (court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, an earned income disregard of \$65.00 plus ½ of the remaining earnings, or Guardianship/Conservator expenses). Petitioner had also been approved for

the Medicare Savings Program (MSP), which pays for Petitioner's Medicare part B premium. (Exhibit A, p. 14). Accordingly, there was no evidence that Petitioner had a medical insurance premium expense. Additionally, the Department only disregards the annual cost of living increase for RSDI for January, February, and March. (See BEM 503, January 1, 2023, p. 30). Because the Department was determining eligibility as of April 1, 2024, the annual RSDI cost of living increase was not disregarded. (Exhibit A, p. 19).

Petitioner testified he was confused regarding the deductible determination. Petitioner looked at the Department website for Medicaid and saw an income limit of \$1,255.00. His deductible is far more than the difference between his income and the income limit. Petitioner also indicated that having this deductible will not allow him to have any money for anything else. (Petitioner Testimony). As discussed, and as indicated in the above cited policies, the deductible calculation is not the difference between the income limit and an individual's income.

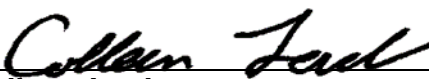
This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA when the RSDI income was included in the MA budget.

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 eligibility for MA when the RSDI income was included in the MA budget.

DECISION AND ORDER

Accordingly, the FAP portion of Petitioner's March 25, 2024 hearing request is **DISMISSED** for lack of jurisdiction and the Department's MA 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 :

DHHS
Kristina Etheridge
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Via-First Class Mail :

Petitioner
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[REDACTED]
[REDACTED]