



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: May 31, 2024
MOAHR Docket No.: 24-004498
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 23, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

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

Did the Department properly determine Petitioner's 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. Petitioner was an ongoing MA recipient.
2. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration in the amount of [REDACTED] monthly.
3. On February 12, 2024, Petitioner applied for FAP and continued MA.
4. On February 13, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that effective February 1, 2024, she was eligible for MA under the Plan First Family Planning Program (PFFP). (Exhibit A, p. 8).

5. In an SSI Related Medicaid Income Budget provided by the Department for benefit period of February 2024, Petitioner was eligible for MA coverage under the Group 2 Aged, Blind and Disabled (G2S) program with a monthly deductible of \$827. (Exhibit A, p. 20).
6. On March 20, 2024, the Department sent Petitioner a Notice of Case Action informing her that she was not eligible for any FAP benefits for February 12 to 29, 2024 but effective March 1, 2024 through February 28, 2026, she was approved for FAP benefits in the amount of \$23 per month. (Exhibit A, p. 11).
7. On April 10, 2024, Petitioner requested a hearing to dispute the Department's action on her MA and FAP cases. (Exhibit A, pp. 3-5).

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).

Petitioner requested a hearing to dispute her MA coverage and FAP monthly allotment.

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.

Upon reviewing Petitioner's eligibility criteria at redetermination, the Department concluded that Petitioner was eligible for MA coverage under the G2S program with a monthly deductible. Petitioner disputes this coverage.

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, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in

eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was a Medicare recipient and disabled, and there was no evidence that Petitioner was pregnant or the parent or caretaker of a minor child, Petitioner was eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] (Petitioner's gross unearned income of [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

Based on her net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which is \$1,235 per month for a fiscal group size of one. BEM 163 (July 2017), p. 2; RFT 242 (April 2023), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a G2S program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is \$375.00 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, Petitioner is eligible for MA assistance under a deductible program, with the deductible equal to the amount of the monthly net income, less allowable deductions, reduced by \$375 per month. BEM 545 (July 2022), pp. 2-3.

The Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit A, p. 20) for the benefit month of February 2024 that was reviewed on the record. In determining the monthly deductible, net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged. BEM 544, pp. 1-3. The Department also provides for a cost-of-living adjustment (COLA) (for January, February, and March only). BEM 503, (January 2023), p. 30.

In this case, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. The following health insurance premiums were paid by Petitioner: \$174.70 per month for Medicare Part B Premium. Petitioner's allowable needs deduction for health insurance and remedial services totaled \$174.70. Petitioner's COLA exclusion was \$45.00. Therefore, based on the above, Petitioner's allowable deductions totaled \$219.70.

Petitioner's net income of [REDACTED] reduced by allowable needs deductions of \$219.70 and by the PIL of [REDACTED] results in a deductible of \$827. Thus, the Department did properly determine Petitioner's eligibility for SSI-related MA with a monthly deductible.

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.

Petitioner applied for FAP benefits on February 12, 2024, and the Department concluded that based on her income, the Petitioner was eligible for a FAP benefit amount of \$23 a month. Petitioner disputes this benefit amount.

The FAP benefit amount is determined by a client's net income. FAP net income factors include group size, countable monthly income, and relevant monthly expenses. BEM 556 (January 2023), pp. 1-8. The NOCA dated March 20, 2024, included a summary of all relevant budget factors. (Exhibit A, pp. 11-15). Additionally, the Department provided calculation from Bridges titled FAP-EDG Net Income Results. (Exhibit A, p. 21). During the hearing, the budget factors noted on both documents were discussed. In determining Petitioner's FAP eligibility, the Department factored a benefit group including Petitioner only. Petitioner did not dispute the benefit group size of one.

The Department calculated unearned income of [REDACTED] for Petitioner's group. Petitioner's testimony acknowledged receipt of [REDACTED] in gross monthly RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023), p. 29. For purposes of FAP eligibility, Petitioner's unearned income is [REDACTED] per month.

The Department uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (February 2024), p. 1. Petitioner, who receives RSDI due to either his age or a disability, is a senior/disabled/veteran (SDV) member of his FAP group. FAP groups with SDV members and no earned income are entitled to the following deductions to gross income: a standard deduction based on group size, child care expenses, child support expenses paid for non-group members, medical expenses incurred by the SDV members of the FAP group if those expenses exceed \$35, and an excess shelter deduction that takes into consideration the FAP group's shelter and utility expenses. BEM 554, p. 1; BEM 550 (February 2024), p. 1.

Because Petitioner pays for his Part B Medicare premium, he incurs medical expenses in excess of \$35. Because he has not verified medical expenses in excess of \$200, he is therefore eligible for the \$165 standard medical deduction (SMD). See BEM 554, pp. 9-12.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. Petitioner's FAP benefit group size of one justifies a standard deduction of \$198, as shown on the net income budget. RFT 255 (October 2023), p. 1. The Department did not include any day care or child support expenses in Petitioner's budget and Petitioner did not dispute exclusion for such expenses. Petitioner's adjusted gross income (AGI) is determined by subtracting allowable non shelter expenses from the countable gross monthly income. Subtracting the standard deduction (\$198) and SMD (\$165) from the group's countable income [REDACTED] results in an AGI of [REDACTED]

To determine the excess shelter expense, the last deduction available in calculating net income, the Department subtracts half of Petitioner's AGI, or [REDACTED] from Petitioner's total shelter obligation. The Department credited Petitioner with monthly housing expenses of \$655. Petitioner testified that her heating and utilities are included in her rent. Petitioner did state that she pays her telephone bill and thus the Department credited Petitioner with a standard telephone deduction of \$31. RFT 255 (October 2023), p. 1. Adding Petitioner's housing expenses and telephone deduction results in a total shelter expense of \$686. When Petitioner's total shelter expenses of \$686 are reduced by the [REDACTED] AGI, Petitioner's excess shelter expense is \$147.

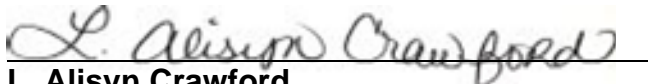
The FAP benefit group's net income is then determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2023) p. 13. Based on Petitioner's group size and net income, Petitioner's FAP benefit is \$23, the same amount was calculated by the Department. Thus, the Department properly determined Petitioner's FAP eligibility.

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 MA and FAP eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LC/ml


L. Alisyn Crawford
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:

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Interested Parties

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