



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

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Date Mailed: June 25, 2024
MOAHR Docket No.: 24-004666
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 29, 2024, via teleconference. Petitioner appeared and represented himself. ██████████ (Spouse) appeared as a witness for Petitioner. Marcella Towns, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS Hearing Packet was admitted during the hearing as MDHHS Exhibit A, pp. 1-105.

ISSUES

1. Did MDHHS properly determine Petitioner's and Spouse's eligibility for Medicaid (MA) and Medicare Savings Program (MSP) benefits?
2. Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) 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 ██████████ 2024, Petitioner submitted a renewal for MA on behalf of himself and ██████████ (Spouse) (Exhibit A, p. 35).
2. On February 27, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice stating that ██████████ (Spouse) was eligible for full-coverage MA, effective March 1, 2024 to March 31, 2024 (Exhibit A, p. 95). The notice also indicated that Spouse was eligible for MA with a monthly deductible of \$3,392.00, effective April 1, 2024 ongoing (Exhibit A, p. 95).

3. On or about [REDACTED] 2024, Petitioner applied for FAP benefits.
4. On March 25, 2024, Petitioner filed a request for hearing (Exhibit A, p. 3).

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).

The Food Assistance Program (FAP)

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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS testified that it denied Petitioner's application for FAP because the household exceeded the income limit for the program. Petitioner objected to MDHHS' conclusion and argued that the household housing costs should have been considered in the budget calculation. MDHHS did not introduce the FAP application or notice of case action indicating the eligibility determination but testified that Petitioner applied for FAP on March 13, 2024.

To determine whether Petitioner's household qualifies for FAP, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), p. 1. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3. For Retirement, Survivors, Disability Insurance (RSDI) income and UCB income, MDHHS counts the gross amounts as unearned income. BEM 503 (January 2023), pp. 29, 38.

Here, MDHHS determined that the countable unearned income for the household was \$3,912.00 based on the receipt of Retirement, Survivors, and Disability Insurance (RSDI) benefits (Exhibit A, p. 104). Petitioner submitted evidence that he receives \$[REDACTED] in gross, monthly RSDI benefits and Spouse receives \$[REDACTED] in gross, monthly RSDI benefits, which equals \$3,912.00 (Exhibit A, pp. 51-52). Petitioner's household was considered a senior/disabled/disabled veteran (SDV) household. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members

- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

The budget shows that MDHHS determined that Petitioner had an excess shelter deduction of \$0.00. MDHHS failed to properly explain how the excess shelter deduction was calculated. Petitioner asserted that MDHHS failed to consider their housing expenses. It is unclear from the record whether Petitioner's housing expenses were considered or whether MDHHS requested verification of housing expenses, given this dispute. MDHHS is required to request additional information from clients when an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (October 2023), p. 1. MDHHS failed to adequately show that it considered Petitioner's shelter expenses or that it requested additional information regarding those expenses, pursuant to 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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FAP benefits.

Medicaid (MA)

MA 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Medicare is a federal program administered by the Social Security Administration (SSA). BAM 810 (January 2020), p. 1. MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp 1-2; BAM 810, p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. Clients must be entitled to Medicare Part A to be eligible for the program. BEM 165, pp. 5-6. When an adult is applying for MSP, the fiscal and asset group is the adult applicant and their spouse. BEM 211 (July 2019), p. 8.

In this case, MDHHS determined that Spouse was eligible for full-coverage MA, effective March 1, 2024 to March 31, 2024, and MA with a monthly deductible of \$3,392.00, effective April 1, 2024 ongoing (Exhibit A, p. 95). MDHHS did not introduce a determination notice regarding Petitioner's MA coverage but testified that it also determined that Petitioner was eligible for MA with a monthly deductible, effective April 1, 2024 ongoing. MDHHS testified that Petitioner and Spouse were previously receiving Medicare Savings Program (MSP) coverage, but the coverage ended March 31, 2024. MDHHS did not give a reason for the termination of Petitioner and Spouse's MSP coverage and did not introduce a notice with relevant information at the hearing.

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

G2S MA is an SSI-related MA category available to a person who is aged (65 or older), blind, or disabled. BEM 166 (April 2017), p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. *Id.* If net income exceeds the Group 2 needs, MA eligibility is still possible with a deductible. *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.*

To evaluate Petitioner and Spouse's eligibility for MA, MDHHS must determine the MA fiscal group size, net income and assets for each person. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. In this case, MDHHS determined that the household received \$3,912.00 in Retirement, Survivors, Disability Insurance (RSDI) income (Exhibit A, p. 14).

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. Here, MDHHS did not introduce a budget to show how Petitioner and Spouse's deductible was determined, nor did it provide a notice regarding Petitioner's MA coverage. Additionally, MDHHS testified that it terminated Petitioner and Spouse's MSP coverage; however, no notice was provided and MDHHS did not explain why it was terminated at the hearing. MDHHS is required to

certify eligibility results and give clients proper notice, pursuant to BAM 220 (November 2023), pp. 1-24. It failed to satisfy its burden of showing that it gave Petitioner and Spouse proper notice of its determinations regarding MA and MSP.

Whether Petitioner and Spouse were eligible for MSP affects their deductible amount because net income is reduced by health insurance premiums paid by the individual. Without this information, it is not possible to determine whether MDHHS properly determined Petitioner and Spouse's deductible amount for MA.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner and Spouse's eligibility for MA and MSP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**. MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Petitioner's FAP application submitted on or about [REDACTED] 2024.
2. Provide Petitioner with any supplemental FAP payments that he was eligible to receive, but did not, from the date of eligibility ongoing;
3. Redetermine Petitioner and Spouse's eligibility for MA and MSP coverage, effective April 1, 2024 ongoing;
4. Provide Petitioner and Spouse with the most beneficial category of MA coverage that they are eligible to receive, from April 1, 2024 ongoing;
5. If eligible, provide Petitioner and Spouse with MSP coverage from the date of eligibility, ongoing; and
6. Notify Petitioner of its decision(s) in writing.



Linda Jordan
Administrative Law Judge

LJ/pt

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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