



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 6, 2024
MOAHR Docket No.: 23-009360
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 1, 2024, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Kiera Laneaux and Katie Bowman.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and 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. Petitioner was an ongoing recipient of Medical Assistance (MA) under the Freedom To Work (MA-FTW) category, Medicare Savings Program (MSP), and the Food Assistance Program (FAP) at times relevant to this hearing. Exhibits A, p 14.
2. Petitioner receives earned income from employment in the gross weekly amount of \$ [REDACTED] Exhibit A, p 5.
3. Petitioner is responsible for housing expenses in the monthly amount of \$ [REDACTED] Exhibit A, p 13.
4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]

5. On November █ 2023, the Department notified Petitioner that she was not eligible for the Medicare Savings Program (MSP) effective December 1, 2023. Exhibit A, pp 14-18.
6. On December █ 2023, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective December 1, 2023. Exhibit A, p 19.
7. The Department closed Petitioner's Freedom To Work (FTW) benefits and transferred to a category of Medical Assistance (MA) with a monthly deductible.
8. On December 6, 2023, the Department received Petitioner's request for a 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

The Food Assistance Program (FAP) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3001 through 400.3011.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned income. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (April 1, 2022), pp 1-17.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2023).

Freedom To Work (MA-FTA) is a category of Medicaid available to disabled individuals age 16 through 64 who have earned income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 174 (January 1, 2020), p 1.

The income limit to participate in the MA-FTA program is 250% of the federal poverty level. BEM 174, p 3.

Petitioner was an ongoing recipient of MA-FTW benefits when the Department initiated a review of her eligibility for ongoing benefits. Petitioner receives a prospective gross monthly income of \$[REDACTED] which is 260% of the federal poverty level for a household of one. This amount was determined by multiplying her weekly gross earnings by the 4.3 conversion factor as directed by BEM 505 and adding her monthly social security payments of \$[REDACTED]. Since Petitioner's gross monthly income exceeds 250% of the federal poverty level, she is no longer eligible for MA benefits under Freedom To Work.

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 or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2024), p 2.

The Department then initiated a review of Petitioner's eligibility for other categories of MA benefits.

Petitioner is not eligible for MA benefits under the AD-CARE category of MA as a disabled person because her income exceeds 100% of the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

The Department then reviewed Petitioner's eligibility for the MA-G2S category. A review of Petitioner's case reveals that the Department budgeted correct amount of income received by the Petitioner. Petitioner's "protected income level" is \$391, and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$[REDACTED] deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct. Petitioner's medical expenses, including insurance deductibles can be applied towards that deductible.

The Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (October 1, 2022), pp 1-4.

The income limit to participate in any category of the Medicare Savings Program is \$2,238.50. Department of Health and Human Services Reference Table Manual (RFT) 242 (April 1, 2023), p 1. Therefore, the Department notified Petitioner that she is no longer eligible to have her Medicare Part B premiums covered by the Department.

Petitioner receives a prospective gross monthly income of \$ [REDACTED] consisting of her prospective earned income from employment and her social security payments. Petitioner's adjusted gross income of \$2,441 was determined by reducing her earned income from employment by the 20% earned income deduction and the standard \$165 medical deduction.

As a disabled person receiving FAP benefits, Petitioner is entitled to a deduction for her out of pocket medical expenses that exceed \$35. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (February 1, 2024), p 9. Petitioner is enrolled in Medicare, but she was not responsible for paying the Medicare Part B premium before the Department redetermined her eligibility for ongoing benefits. Because Petitioner was employed and enrolled in the Freedom To Work program, she was responsible for paying a \$ [REDACTED] Freedom To Work premium based on her income. The Department granted Petitioner a standard \$165 medical deduction because her actual out of pocket expenses were less than the standard deduction.

Petitioner is responsible for rent in the monthly amount of \$ [REDACTED] and she is entitled to the \$680 standard heat and utility deduction. Because Petitioner's total countable shelter expenses were less than 50% of her adjusted gross income, she was not entitled to a shelter deduction.

Since Petitioner was not entitled to a shelter deduction, Petitioner's net monthly income is the same as her adjusted gross income. A household of one with a net monthly income of \$2,410 is not eligible for any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2023), p 34.


Since Petitioner is no longer eligible for the Medicare Savings Plan or Freedom To Work benefits, Petitioner is now responsible for paying her Medicare Part B premium herself. Further, Petitioner testified that her increase of household income has caused her to become ineligible for the subsidized housing assistance she was receiving, which has further increased her monthly expenses. Petitioner's increased expense could potentially affect her eligibility for benefits in the future, but the Department properly determined her eligibility for Medicaid and food assistance as of December 1, 2023.

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 that Petitioner was no longer eligible for Freedom To Work Medicaid, the Medicare Savings Program, and the Food Assistance Program (FAP) effective December 1, 2023.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dm



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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

