



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON BROWN  
DIRECTOR

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

Date Mailed: June 11, 2024  
MOAHR Docket No.: 24-003750  
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 30, 2024. Petitioner was present at the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Sade Mason-Brown, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly determine Petitioner's and his spouse's (Spouse's) Food Assistance Program (FAP) eligibility?

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

Did the Department properly determine Petitioner's Medicare Savings Program (MSP) 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 and Spouse were ongoing recipients of MA under the AD-Care program.
2. Petitioner and Spouse were ongoing recipients of FAP with a monthly benefit amount of \$489.
3. On February 5, 2024, Petitioner returned to the Department a completed redetermination form concerning his Medicaid eligibility. (Exhibit A, pp. 14-20).

4. On February 14, 2024, the Department sent Petitioner a Verification Checklist (VCL) to determine his MA and FAP eligibility. (Exhibit A, pp. 7-9). The VCL requested verification of Spouse's Retirement, Survivors, and Disability Insurance (RSDI) benefit, verification of mortgage or deed and current property tax records, and verification of unearned income payment.
5. On February 26, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing Petitioner that effective April 1, 2024, his FAP benefit amount would decrease to \$33 per month. (Exhibit A, pp. 24-28). The NOCA provided a budget summary which noted Petitioner's housing costs as \$157.82 with a Heat/Utility (h/u) standard amount of \$680. (Exhibit A, p. 25).
6. On April 1, 2024, Petitioner requested a hearing to dispute the Department's actions regarding his FAP, MA, and MSP cases. (Exhibit A, pp. 4-5).

### **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).

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.

### **FOOD ASSISTANCE PROGRAM (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 requested a hearing disputing the benefit amount decrease of his FAP case. (Exhibit A, p. 4). The Department testified that Petitioner's FAP benefits were reduced following a change to his budget following an error. The Department previously allotted \$1,268.83 monthly for Petitioner's housing expense. (Exhibit A, p. 39). On February 14, 2024, the Department discovered that it had incorrectly budgeted Petitioner's property taxes as a monthly expense instead of a yearly expense. After updating Petitioner's

housing expenses, Petitioner's FAP benefit amount decreased to \$33. (Exhibit A, pp. 24-28).

Petitioner's FAP budget was reviewed at the hearing. Petitioner did not dispute that the household received [REDACTED] in monthly RSDI income, as budgeted by the Department. Because Petitioner and Spouse are both over age [REDACTED] they are both senior/disabled/disabled veteran (SDV) members of their FAP group. Households with SDV members and only unearned income are eligible for the following deductions to income: standard deduction based on group size, a \$165 standard medical expense deduction if an SDV member incurs medical expenses in excess of \$35 (or actual verified expenses if in excess of \$200), dependent care expenses, child support expenses, and an excess shelter deduction. BEM 554 (February 2024) p. 1, 9-12; BEM 550 (February 2024), p. 1.

Here, Petitioner did not present any evidence of eligibility for deductions for medical expenses, dependent care expenses, or child support expense. Petitioner's household's gross monthly income of \$[REDACTED] reduced by the \$198 standard deduction applicable to his two person FAP group an adjusted gross income (AGI) of \$[REDACTED]

The excess shelter deduction is based on the FAP group's total shelter expenses reduced by 50% of AGI, or \$[REDACTED] in this case. Petitioner disputes the amount the Department specified for his housing costs and testified that the housing expenses should be around \$545. Petitioner argued that while his mortgage is paid off, the Department should count his expenses for housing costs associated with housing bills from Consumers Energy, DTE, AT&T, water/sewer, and monthly homeowner's insurance. (Exhibit 1, pp. 1-7).

When determining a FAP benefit amount, the Department must determine any excess shelter expense deduction available to Petitioner. To calculate the excess shelter deduction, the Department must review Petitioner's housing and utility expenses, if any. Petitioner confirmed that he no longer has a mortgage payment as his home is paid for, but he does pay property taxes and homeowner's insurance. Property taxes and homeowner's insurance are allowable housing expenses. BEM 554 (February 2024), p. 15. Petitioner confirmed that his property taxes are \$1,211.90 per year and his homeowner's insurance is \$682.20 per year. All ongoing expenses are converted into a monthly amount and expenses paid annually are averaged over twelve (12) months. BEM 554, pp. 3-4. Based on these housing costs, Petitioner's annual shelter expenses total \$1894, which the Department properly converted to a monthly housing expense of \$158. (Exhibit A, p. 40). The Department properly determined Petitioner's housing costs.

Petitioner also confirmed that he pays all heat, electric, and other utilities for the household. Although Petitioner argued that actual expenses should be budgeted, when a FAP group has heating and other utility expenses, separate from housing expenses such as a mortgage or property taxes, Department policy provides that it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess

shelter deduction. The h/u standard is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. The h/u standard amount is \$680 (RFT 255), and the Department properly used that amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 40).

Once Petitioner's housing and utility expenses were determined, the Department added the housing expense and h/u standard together for a total shelter amount of \$838. The Department then subtracted 50% of Petitioner's \$[REDACTED] Adjusted Gross Income (AGI), or \$[REDACTED] from the total shelter amount to determine Petitioner's excess shelter deduction. With total shelter amount of \$838, Petitioner is left with an excess shelter deduction of \$1. (Exhibit A, p. 40). Subtracting the excess shelter deduction from Petitioner's AGI, results in his net income of \$[REDACTED]

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 two-person FAP group size and net income of \$[REDACTED] Petitioner's monthly FAP benefit is \$33. RFT 260 (October 2023), p. 23. This amount is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating Petitioner's monthly FAP benefit.

#### **MEDICAL ASSISTANCE (MA)/MEDICARE SAVINGS PROGRAM (MSP)**

On January 4, 2024, the Department sent Petitioner a redetermination form to renew his MA benefits. (Exhibit A, p. 14). Petitioner submitted the redetermination timely. On February 26, 2024, while processing the redetermination, an asset detection was received by the Department concerning checking and savings accounts in the Petitioner's and Spouse's names that were not disclosed in the redetermination. (Exhibit A, pp. 21-23). On March 6, 2024, the Department sent Petitioner a VCL and requested the Petitioner's and Spouse's most recent bank statements for all of their accounts by March 18, 2024. (Exhibit A, pp. 31-32). The Department provided a copy of Petitioner's Case Comments Summary for his case, and it noted that the Department reviewed Petitioner's budget and spoke with Petitioner informing him that his MA coverage was transitioning to MA Group 2 Aged, Blind, Disabled (G2S) program with a monthly deductible due to his household income exceeding income limits for the full coverage AD-Care program. (Exhibit A, p. 37). At the hearing, the Department indicated that as of the hearing date, Petitioner had not returned the request verifications regarding his and Spouse's bank statements. The evidence provided by the Department did not show that any further actions were taken regarding Petitioner's and Spouse's MA eligibility, and it is unclear whether the Department has issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner and Spouse regarding their current eligibility.

Based on the evidence presented, the Department has failed to show that it completed processing Petitioner's MA redetermination and determined Petitioner's MA and MSP eligibility in accordance with Department policy.

It is noted in his request for hearing and during the hearing, Petitioner stated that he has endured rude behavior and racial discrimination from his department worker. (Exhibit A, p. 4). Complaints alleging misconduct or mistreatment by a state employee cannot be considered by MOAHR and must be referred to MDHHS or its customer service unit in accordance with Michigan Administrative Code, Rule 792.11002(3). A written complaint against a local MDHHS office may be sent to the local office director's or district office manager's attention. A list of MDHHS county directors and their phone numbers can be found at [www.michigan.gov/dhs-countyoffices](http://www.michigan.gov/dhs-countyoffices) (Click: *Text Listing of County Offices and Addresses*). Individuals who believe they are victims of unlawful discrimination may follow complaint with the Michigan Department of Civil Rights at [www.michigan.gov/mdcr](http://www.michigan.gov/mdcr) or call 1-800-482-3604 for assistance. Additional information on filing discrimination complaints is available in Bridges Administrative Manual (BAM) 105, pp. 3-7.

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 when it approved Petitioner for FAP benefits in the amount of \$33 per month for his group of two, and the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's and Spouse's MA and MSP eligibility.

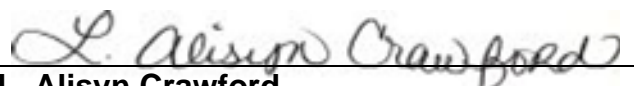
**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's FAP benefit amount change due to a housing expense error noted on the budget and **REVERSED IN PART** with respect to Petitioner and Spouse's MA/MSP cases.

THE DEPARTMENT 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. Reprocess the redetermination received from Petitioner on February 5, 2024, to determine Petitioner's and Spouse's MA and MSP eligibility;
2. If eligible, provide Petitioner and Spouse with the most beneficial coverage they are eligible to receive;
3. If eligible, provide MSP coverage to Petitioner; and
4. Notify Petitioner in writing of its decision.

LC/th



**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:**

**DHHS**  
Yvonne Hill  
Oakland County DHHS Madison Heights Dist.  
30755 Montpelier Drive  
Madison Heights, MI 48071  
**MDHHS-Oakland-DistrictII-Hearings@michigan.gov**

**Interested Parties**

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

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]