



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: July 2, 2024
MOAHR Docket No.: 24-005482
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 June 24, 2024. Petitioner was represented by his wife [REDACTED] (Wife). The Department of Health and Human Services (Department) was represented by LaShonya Montgomery, Eligibility Specialist.

ISSUE

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

Did the Department properly determine Petitioner's and Wife's Food Assistance Program (FAP) benefits effective May 1, 2024?

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 Wife are ongoing recipients of FAP and MA benefits.
2. Both Petitioner and Wife are disabled and receive monthly Retirement, Survivor's, and Disability Insurance (RSDI) benefits in the amounts of [REDACTED] and [REDACTED] respectively.
3. On April 5, 2024, Petitioner and Wife submitted a redetermination for MA and a Mid-Certification for FAP.

4. On April 17, 2017, the Department processed Petitioner and Wife's Mid-Certification and their FAP benefits decreased from \$196 to \$81 per month effective May 1, 2024 ongoing. (Exhibit A, p. 31).
5. On April 17, 2017, the Department sent Petitioner and Wife a Health Care Coverage Determination Notice notifying them that they were approved for MA coverage effective May 1, 2024 under Plan First Family Planning and MA subject to a \$1,347 monthly deductible each. (Exhibit A, p. 25).
6. On May 9, 2024, Petitioner and Wife submitted a request for hearing to the Department disputing decisions relating to their MA and FAP cases. (Exhibit A, pp. 4-10).

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 disputing the Department's actions taken with respect to his FAP, MA, and Medicare Savings Program (MSP). Following commencement of the hearing, the Department explained that Petitioner and Wife were eligible for Specified Low-Income Medicare Beneficiary (SLMB) which pays Medicare Part B premiums. Wife testified that there was no dispute regarding their MSP coverage. Therefore, Petitioner's request for hearing as it relates to MSP coverage is **DISMISSED**.

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 and Wife's MA eligibility criteria at redetermination, the Department concluded that Petitioner and Wife were eligible for MA coverage under the Group 2 Aged, Blind and Disabled (G2S) program with a monthly deductible of \$1,347. Petitioner and Wife dispute 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 and Wife are disabled Medicare recipients and there was no evidence that Petitioner was the parent or caretaker of a minor child, Petitioner and Wife were eligible for MA only under an SSI-related category. In determining the SSI-related MA category Petitioner and Wife are eligible for, the Department must determine Petitioner and Wife's MA fiscal group size and net income. As married individuals, Petitioner and Wife have a fiscal group size for SSI-related MA purposes of two. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] (Petitioner and Wife's RSDI unearned income of [REDACTED] [REDACTED] and [REDACTED] reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which is [REDACTED] for a fiscal group size of two. BEM 163 (July 2017), p. 2; RFT 242 (April 2024), 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 Group 2 SSI (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 and Wife's position, with an MA fiscal group size of two living in [REDACTED] County, is [REDACTED] per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's and Wife's monthly net income (less allowable needs deductions) exceeds [REDACTED] they are eligible for MA coverage under the deductible program, with the deductible equal to the amount that monthly net income, less allowable deductions, exceeds [REDACTED] BEM 545 (July 2022), pp. 2-3.

The Department did not present an SSI-related MA budget showing the calculation of Petitioner's deductible. 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.

In this case, neither Petitioner nor Wife reside in an adult foster care home or home for the aged and, as such, are not eligible for any remedial service allowances. As it relates to health insurance premiums paid by Petitioner and Wife, it was indicated on their redetermination that they each pay Medicare Part A premiums and Wife pays other medical health insurance premiums. (Exhibit A, p. 16). It is unclear whether the

Department provided consideration for Petitioner and Wife's insurance premiums for Medicare Part A costs and other medical insurance as an allowable deduction. Since Petitioner informed the Department of his and Wife's medical expenses related to Part A Medicare and Wife's other medical insurance on the redetermination form, the Department should have verified the reported expense to see if it could be included in Petitioner and Wife's budget and reduce the deductible. Thus, the Department did not properly determine Petitioner and Wife'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.

The Department is required to periodically redetermine or renew an individual's eligibility for active benefit programs, including FAP. BAM 210 (January 2024), p. 1. FAP groups assigned a 24-month benefit period require a mid-certification contact in the 12th month of the benefit period. BAM 210, p. 3.

In this case, the Petitioner and Wife were ongoing recipients of FAP benefits. On April 5, 2024, the Department received Petitioner's Mid-Certification Contact Notice. The Department processed the Mid-Certification for FAP, as well as a Shelter Verification Form provided by Petitioner on April 11, 2024. Based on these supporting documents, Petitioner and Wife's benefits were decreased from \$196 monthly to \$81 monthly. Petitioner disputes the Department's decision.

The Department begins the mid-certification process by reviewing Petitioner's income sources and amounts. BAM 210, p. 20. For RSDI, the Department identifies the gross benefit amount as unearned income. BEM 503 (April 2024), p. 30. The Department budgeted Petitioner's household income as [REDACTED] based on his and Wife's receipt of [REDACTED] and [REDACTED] per month in RSDI benefits. (Exhibit A, pp. 18-21). Wife testified that the amounts used by the Department were correct.

Once countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner and Wife are disabled, they are considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.

- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (February 2024) p. 1; BEM 556 (March 2024) pp. 3-6.

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p.1. Groups of 1 to 3 received a standard deduction of \$198. RFT 255 (October 2023). The Department properly deducted \$198 from the household's countable income, as shown on the budgets provided on the April 17, 2024 Benefit Notice, and the FAP-EDG Net Income Results provided by the Department. (Exhibit A, pp. 32, 35-36).

The other deduction Petitioner and Wife are eligible for is the excess shelter deduction which takes into consideration the household's monthly shelter expenses of \$755, which Wife confirmed, and the applicable utility standard which is based on the type of utility Petitioner and Wife are responsible for. BEM 556, p. 5. A Shelter Verification form dated April 5, 2024 and submitted to the Department on April 11, 2024 by the Petitioner and Wife's property owner explained that their rent cost includes heating, air conditioning, and trash removal. (Exhibit A, p. 23). Based on the Shelter Verification, the FAP budgets removed the \$680 H/U standard previously applied to Petitioner and Wife's budget when clients are responsible for heating or cooling expenses and replaced it with the non-heat electric standard (\$157), water/sewer standard (\$109), and telephone standard (\$31), which are the standards that apply to utilities Petitioner and Wife are responsible for paying. (Exhibit A, p. 32). Because Petitioner and Wife are no longer responsible for heating and cooling expenses separate from rent, the Department properly replaced the \$680 H/U standard with the other utility standards totaling \$297.

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. Petitioner and Wife did assert on their renewal that they have expenses related to Medicare Part A and Part B, as well as the other medical insurance attributed to Wife on the redetermination form. (Exhibit A, p. 13). Here, Petitioner and Wife have SLMB coverage, but this coverage only covers the costs related to Medicare Part B. Therefore, the Department should have verified whether costs exist for Petitioner and Wife regarding their Medicare Part A and if so, those costs should be considered in their FAP budget as medical expenses. Therefore, the Department did not properly determine Petitioner and Wife's FAP benefit amount.

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 did not act in accordance with Department policy when it determined Petitioner and Wife's MA deductible amount and FAP benefit amount.

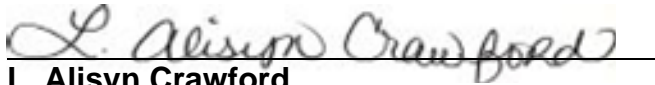
DECISION AND ORDER

Accordingly, the request for hearing as it relates to MSP coverage is **DISMISSED**. The Department's decisions related to Petitioner and Wife's MA and FAP cases are **REVERSED**.

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. Redetermine Petitioner and Wife's eligibility for FAP and MA benefits, requesting verification of household medical expenses, if necessary, from May 1, 2024, ongoing;
2. If eligible, issue any supplemental payments for any FAP benefits that Petitioner and Wife were eligible to receive, but did not, from May 1, 2024 ongoing; and
3. Notify Petitioner and Wife in writing of its decision.

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:

Respondent

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Interested Party

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

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
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