



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: August 15, 2024
MOAHR Docket No.: 24-007821
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on August 7, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Remy Williams, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's Group 2 Aged, Blind and Disabled (G2S) Medicaid (MA) deductible?

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 [REDACTED] [REDACTED] 2024, the Department received an application for assistance from Petitioner for FAP and MA. (Exhibit A, pp. 8 – 15).
2. Petitioner is over 65 years old, unmarried, and does not have any dependent children. (Exhibit A, pp. 8 – 15).
3. On March 6, 2024, the Department interviewed Petitioner in connection with her application for assistance. Petitioner reported Retirement, Survivors, and Disability

Insurance (RSDI) income of \$1,705 per month and employment income from Wayne County (Employer). (Exhibit A, p. 3).

4. On March 22, 2024, the Department received paystubs from Petitioner reporting her earnings from Employer. (Exhibit A, pp. 18 – 21).
5. On June 17, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) which notified Petitioner that she was approved for MA with a monthly deductible of \$2,505 effective July 1, 2024. (Exhibit A, pp. 35 – 37).
6. On June 24, 2024, the Department received a request for hearing from Petitioner disputing denial of FAP and that she is approved for MA with a monthly deductible. (Exhibit A, pp. 5 – 6).
7. On July 2, 2024, the Department sent Petitioner a Benefit Notice (NOCA) which denied Petitioner FAP benefits effective February 27, 2024 due to excess net income. (Exhibit A, pp. 27 – 30).

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).

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 to dispute the Department's denial of FAP benefits for February 27, 2024 ongoing. The Department denied ongoing benefits due to excess net income.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income and must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 30 – 32. Wages from employment are earned income and may be prospected. BEM 501 (January 2024), pp. 6 – 7. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit

month. BEM 505 (October 2023), pp. 1, 6 – 7. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

In this case, Petitioner applied for FAP benefits for her household of one on [REDACTED] 2024. (Exhibit A, pp. 8 – 15). During the application process, Petitioner reported \$1,705 in monthly RSDI income which the Department verified through a State Online Query (SOLQ). She also reported earnings from Employer, which she verified by providing paystubs to the Department. (Exhibit A, pp. 18 – 21). The Department testified that it prospectively determined Petitioner's bi-weekly wages of \$ [REDACTED] paid on February 9, 2024, and \$ [REDACTED] paid on February 23, 2024, to determine her earned income for FAP purposes.

The Department introduced a net income budget at the hearing to show how it concluded that Petitioner was ineligible for FAP due to excess net income. (Exhibit A, p. 25). The Department included \$1,705 in Petitioner's unearned RSDI income. (Exhibit A, p. 25). While the Department testified that there was an error in its initial calculation of Petitioner's earned income, the error was an understatement of Petitioner's income and ultimately did not change the Department's decision. (Exhibit A, pp. 1, 25). On the budget, the Department included \$ [REDACTED] in earned income for Petitioner. (Exhibit A, p. 25). However, based on her February 9 and February 23 paystubs, the average of Petitioner's bi-weekly earnings, multiplied by 2.15, equals standardized monthly earned income of \$ [REDACTED] (Exhibit A, pp. 18 – 19, 21).

Therefore, while the Department testified that Petitioner's actual earned income was higher than budgeted, Petitioner's net income budget was considered based on unearned income of \$1,705 and earned income of \$ [REDACTED]. Once countable income is calculated, the Department must determine which deductions are available to the Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is over 60 years of age, she is considered a senior/disabled/veteran (SDV) household. BEM 550, p. 1. Households with SDV members and earned and unearned income may be eligible for the following deductions:

- A 20% earned income deduction.
- 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 (January 2024) p. 1; BEM 556 (January 2023) pp. 3 – 6.

First, Petitioner had gross earned income totaling \$ [REDACTED] and therefore was entitled to 20% reduction of the earned income amount. BEM 550, p. 1. This results in a deduction of \$370. Next, all groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Petitioner is a group of one and groups of one to three receive a standard deduction of \$198. RFT 255 (October 2023). The Department properly deducted \$198 from Petitioner's countable income, as shown on the budget. (Exhibit A, p. 25).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member 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 pays for Medicare Part B in the amount of \$174.70 per month and the Department properly deducted the standard deduction of \$165. (Exhibit A, p. 25).

Petitioner did not report any dependent care expenses or court ordered child support expenses, and therefore, no deduction for either of those expenses are reflected on the budget. (Exhibit A, p. 25).

Next, the Department determines any excess shelter expense deduction. To start, the Department first calculates Petitioner's adjusted gross income (AGI) by subtracting the allowable deductions outlined above from the countable income. Based on the budgeted earned income of \$ [REDACTED] and unearned income of \$1,705, Petitioner's gross income was \$ [REDACTED]. Once the earned income deduction of \$370, the standard deduction of \$198, and the \$165 medical expense deduction are applied, Petitioner's AGI was \$ [REDACTED].

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. Petitioner reported a housing expense of \$812 per month and that she pays for heat and other utilities. (Exhibit A, pp. 1, 9, 13). When a FAP group has heating and other utility expenses separate from the rental payment, it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which 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 budgeted Petitioner's housing expense and used the h/u standard amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 26).

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of Petitioner's AGI from the total shelter amount. BEM 556 (May 2024), pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$812 and the h/u standard of \$680 was \$1,492. (Exhibit A, p. 26). When 50% of Petitioner's \$2,821 AGI, in the amount of \$ [REDACTED] is subtracted from the total shelter amount of \$1,492, Petitioner's excess shelter deduction was \$82. When Petitioner's excess shelter deduction of \$82 was subtracted from her AGI of \$ [REDACTED] Petitioner's net income was \$2,739.

The net income limit for a FAP group of one is \$1,215. RFT 250 (October 2023). Based on Petitioner's one person FAP group size and corrected net income of \$2,739, Petitioner had excess net income and was ineligible for benefits. RFT 260 (October 2023), p. 54. Therefore, while the Department's budget understated Petitioner's earned income, that error did not result in an incorrect conclusion and the Department properly determined Petitioner had excess net income for purposes of FAP.

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.

Petitioner requested a hearing to dispute her approval of MA with a monthly deductible. The Department approved Petitioner for G2S MA with a monthly deductible of \$2,505 effective July 2024 ongoing. (Exhibit A, p. 35).

Whether the Department properly determined an individual's MA eligibility requires consideration of all MA categories. Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Because Petitioner is over age 65 and is not the caretaker of a minor child, Petitioner is eligible for MA under only SSI-related categories.

Based on Petitioner's circumstances, she was potentially eligible for AD-Care MA. The AD-Care program is a Group 1, full-coverage, SSI-related MA program for aged (over 65) or disabled individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. However, net income for this program cannot exceed 100% of the Federal Poverty Level (FPL) for the fiscal group size. BEM 163, p. 1. For SSI-related MA purposes, adults who do not live with a spouse are a fiscal group size of one. BEM 211 (October 2023), p. 8. Petitioner testified that she is not married; therefore, she is a fiscal group of one. Because she is a fiscal group of one, to be income eligible for this program, Petitioner's monthly income would have had to be \$1,275 or less. RFT 242 (April 2024). Petitioner's gross amount of RSDI, \$1,705 per month, is counted as unearned income but, for purposes of SSI-related MA, is reduced

by \$20 to determine the net unearned income. BEM 503 (April 2024), pp. 30 – 31; BEM 541 (January 2024), p. 3; see also BEM 163. Petitioner's RSDI reduced by \$20, equals \$1,685 in net unearned income. While Petitioner has earned income, because her countable net unearned income alone was \$1,685, which is more than the \$1,275 limit for AD-Care MA, Petitioner was not eligible for AD-Care MA.

Clients who are ineligible for full-coverage MA under AD-Care because of excess income may still be eligible for SSI-related MA under the G2S program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1; BEM 166 (April 2017), p. 1. The deductible for G2S MA is equal to a) the amount of the individual's net income, calculated in accordance with the applicable Group 2 MA policy, b) minus allowable needs deductions set forth in BEM 544, and c) minus the applicable Group 2 MA protected income level (PIL). BEM 166, p. 2; BEM 541, pp. 1, 3 – 4; BEM 544 (January 2020). The PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses that is based on the county in which the client resides and the client's fiscal MA group size. BEM 544, p. 1. The PIL for Wayne County, where Petitioner resides, is \$375 for a one-person fiscal group. RFT 200 (April 2017), p. 2; RFT 240 (December 2013).

In this case, the Department presented a budget for Petitioner's G2S eligibility for July 2024 ongoing and which reflected Petitioner's earned income to be \$2,805. (Exhibit A, p. 33). For SSI-related MA, earned income is budgeted based on actual earnings, and not converted to a standardized amount. BEM 530 (April 2020), pp. 2 – 3. A review of Petitioner's paystubs confirms that the Department properly budgeted the total of Petitioner's gross pay of February 23, 2024 and March 8, 2024 to determine Petitioner's earned income for MA. (Exhibit A, pp. 20 – 21).

When determining an individual's eligibility for SSI-related MA for adults, the individual is eligible for certain deductions from their income to arrive at net earned and net unearned income. Petitioner has no expenses related to non-SSI children or guardianship/conservator expenses, and there was no evidence that Petitioner has work expenses related to blindness or impairment of the worker; therefore, no such deductions were included on the budget. BEM 541, pp. 1 – 3. When a client has earned income, the Department also subtracts \$65 from the client's earnings, and then subtracts one half of the remaining earnings. BEM 541, p. 3. A review of the Department's budget reflects that the Department reduced Petitioner's \$ [REDACTED] earned income by \$65, which left \$2,740, and then subtracted one half of the remainder, \$1,370, which equaled \$1,370 in net earned income. When the Department added Petitioner's net unearned RSDI income of \$1,685 to her net earned income, Petitioner's total net income was \$3,055. (Exhibit A, p. 33). The Department properly determined Petitioner's total net income for MA.

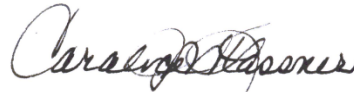
From Petitioner's net income of \$3,055, the Department subtracted \$174.70 per month for Petitioner's Medicare Part B premiums. For G2S, other deductions, such as expenses related to remedial services for those living in adult foster care (AFC) or other group living situations, do not apply in this case. BEM 544, p. 2. Therefore, Petitioner

was only entitled to a \$174.70 deduction from her net income. \$3,055 minus \$174.70 reduced Petitioner's countable net income to \$2,880.30. Lastly, Petitioner was entitled to a \$375 PIL deduction from her net income, which left \$2,505, which becomes the monthly G2S deductible. Therefore, the Department properly determined Petitioner's monthly G2S deductible for July 2024 ongoing was \$2,505.

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 denied Petitioner FAP benefits due to excess net income and when it determined Petitioner's monthly G2S deductible for July 2024 ongoing.

DECISION AND ORDER

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



CML/nr

Caralyce M. Lassner
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
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