



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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

Date Mailed: October 30, 2024  
MOAHR Docket No.: 24-008670  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 October 2, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her daughter [REDACTED] who served as Authorized Hearing Representative (AHR) and Polish interpreter. The Department of Health and Human Services (Department) was represented by Karina Littles, Family Independence Manager.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) 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's FAP case closed in 2013 and there was no evidence presented that she submitted an application requesting FAP benefits since that time.
2. Petitioner was an ongoing recipient of MA benefits. In connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed.
3. On or around [REDACTED] 2024, Petitioner submitted an application for MA, which the Department processed in lieu of a redetermination form.
4. On or around July 12, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective June 1, 2024, she was ineligible for Medicare Savings Program (MSP) benefits. The Notice does not identify Petitioner's eligibility for MA. (Exhibit A, pp. 6-8)

5. On or around July 25, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits and the FAP. (Exhibit A, pp. 3-4)
6. On August 14, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that from June 1, 2024, to June 30, 2024, she was eligible for MSP benefits under the full coverage Non-Categorically Eligible Michigan Beneficiary (NMB) and full coverage MA benefits. The Notice also advised Petitioner that for July 1, 2024, ongoing, Petitioner was eligible for MSP benefits under the Specified Low-Income Medicare Beneficiaries (SLMB) category and MA benefits subject to a monthly deductible of \$892. (Exhibit A, pp. 32-35)

### **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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (June 2024), pp. 1-2. Moreover, BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp. 4-6.

On her July 25, 2024, request for hearing, Petitioner checked the box indicating she disputed the Department's actions regarding the FAP. Petitioner asserted that she was denied FAP benefits. The Department representative testified that Petitioner was previously a recipient of FAP benefits and her FAP case closed in 2013. The Department representative testified that Petitioner has not submitted any application requesting FAP benefits since that time and thus, the Department had not taken any action on Petitioner's FAP case since 2013. While Petitioner indicated she applied for FAP benefits and was

denied, Petitioner did not identify the date of her application. A review of the [REDACTED] 2024, application shows that Petitioner requested only MA or Health Care Coverage and did not request FAP benefits. (Exhibit B). There was no evidence presented that Petitioner submitted an application requesting FAP benefits or that her request was denied. Therefore, there was no evidence that the Department had taken any negative action on her FAP case in the 90 days prior to the request for hearing. Thus, Petitioner's hearing request as it relates to FAP is **DISMISSED** for lack of jurisdiction.

### 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.

In this case, Petitioner disputed the Department's determination that she was eligible for MA under a deductible based program, as well as the denial of MSP benefits. At the hearing, the Department testified that after receiving Petitioner's request for hearing, it discovered that incorrect income was considered in processing the [REDACTED] 2024, application, and as a result, the Department redetermined Petitioner's eligibility for MSP and MA benefits. The Department representative testified that on August 14, 2024, it sent Petitioner a Health Care Coverage Determination Notice advising of the approval of MSP benefits and MA benefits subject to a monthly deductible of \$892 effective July 1, 2024. The evidence established that the issue with respect to MSP was resolved, as Petitioner was approved for MSP benefits from June 1, 2024, ongoing. The hearing proceeded with respect to the Department's MA determination.

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 (October 2023), p. 1; BEM 137 (June 2020), 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, p. 2; 42 CFR 435.404.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

Because Petitioner is enrolled in Medicare, she is not eligible for full coverage MA under the HMP. There was also no evidence that Petitioner was the parent or caretaker of any minor children. Thus, the Department properly concluded that Petitioner was eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105, p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p. 2. Petitioner has a MA fiscal group of one. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,275, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2023), p. 1. Thus, the income limit for Ad-Care eligibility is \$1,255.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2.

The Department asserted that Petitioner had excess income for the Ad-Care program. The Department representative testified that it considered Petitioner's unearned income which totaled [REDACTED] and was based on her receipt of gross monthly RSDI/Social Security benefits. Petitioner did not dispute that she receives monthly unearned income in the amount identified by the Department. The Department properly considered the unearned income general exclusion of \$20. BEM 503 (January 2023), pp. 29-30. Therefore, the Department determined that Petitioner had countable income of [REDACTED]

After further review of Department policy and based on the testimony provided at the hearing, because Petitioner's [REDACTED] countable income exceeds the net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2022), p. 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal

group size. BEM 105, pp. 1-2; BEM 166, pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in ██████ County is \$375 per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p. 1. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit I) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

The Department determined that effective July 1, 2024, Petitioner was eligible for MA under the G2S category with a monthly deductible of \$892. As referenced above, the Department properly considered unearned income from RSDI/Social Security in the gross total amount of ██████ and properly applied the \$20 unearned income exclusion.

At the time the budget was completed, Petitioner was responsible for monthly Medicare premiums of \$174.70, which were accurately reflected on the budget as an insurance premium deduction. There was no evidence that Petitioner submitted any medical expenses for consideration and no evidence that Petitioner was entitled to any additional deductions to income such as guardianship/conservator expenses or remedial services.


Upon review, the Department properly considered Petitioner's unearned income and took into consideration the appropriate deductions to income. Based on the evidence presented because Petitioner's countable income of ██████ for MA purposes exceeds the monthly protected income level of \$375 by \$892, the Department properly calculated Petitioner's monthly \$892 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that effective July 1, 2024, Petitioner was eligible for MA under the G2S program with a monthly deductible of \$892.

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 Petitioner's MA eligibility.

**DECISION AND ORDER**

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA decision is **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
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**

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**Interested Parties**

BSC4

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EQAD

MOAHR

**Via First Class Mail:**

**Authorized Hearings Representative**

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED], MI [REDACTED]