



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 24, 2024
MOAHR Docket No.: 24-008774
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 his daughter [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by Anjeleise McKinley, eligibility Specialist and Kimberly Calhoun, Family Independence Manager.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits and calculate the amount of his 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 is an ongoing recipient of MA benefits Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible. From May 2024 through July 2024, Petitioner's monthly deductible was \$1,723.
2. On or around July 22, 2024, Petitioner submitted a redetermination for his MA case.
3. Petitioner was an ongoing recipient of FAP benefits in the amount of \$49.
4. On or around July 30, 2024, Petitioner requested a hearing disputing the Department's actions regarding his MA and FAP benefits. At the time the hearing was requested, the Department had not completed processing Petitioner's MA redetermination.

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.

In this case, Petitioner requested a hearing disputing the Department's calculation of his FAP benefits. At the hearing it was established that Petitioner had been approved for \$49 in FAP benefits from February 2024 through June 2024. While it was also established that there was a decrease in Petitioner's FAP benefits to \$23 effective August 2024, this action did not occur until after Petitioner's July 30, 2024, request for hearing. Therefore, Petitioner was informed that pursuant to BAM 600, the undersigned Administrative Law Judge (ALJ) did not have the authority to address the decrease in the amount of Petitioner's FAP benefits to \$23. However, the Department presented a FAP Net Income Results Budget showing how it calculated the amount of Petitioner's FAP benefits of \$49. (Exhibit B)

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. The Department considers the gross amount of money earned from Retirement Survivors, and Disability Insurance (RSDI or Social Security) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2024), p. 30. The Department concluded that Petitioner's household had unearned income in the amount of [REDACTED] which the Department representative testified consisted of [REDACTED] in Social Security for Petitioner and [REDACTED] and Social Security for Petitioner's wife. Petitioner confirmed the amount of his monthly Social Security benefit and although he could not recall the amount of his wife's Social Security benefits, confirmed that he receives about [REDACTED] more than her each month. Upon review, the unearned income was properly calculated.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (February 2024), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.

- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (July 2024), p. 1; BEM 556 (May 2024), p. 1-8.

Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was some discussion on the record concerning Petitioner's responsibility for Medicare premiums. The Department testified that according to the SOLQ reviewed during the hearing, there were no premiums for Medicare identified. Petitioner's testimony as to his responsibility for Medicare premiums was unclear. Thus, should Petitioner submit verification of his health insurance or Medicare premiums, the Department will apply the expense as a medical deduction to the FAP budget. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support, or medical expenses and therefore, the budget properly did not include any deduction for dependent care, child support or medical expenses. See BEM 554. The Department properly applied a standard deduction of \$198 which was based on Petitioner's confirmed group size of two. RFT 255 (October 2023), p. 1. With respect to the calculation of the \$450 excess shelter deduction, the Department properly considered Petitioner's confirmed monthly housing expenses of \$766.76 and the \$680 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17.

Upon further review, the Department properly determined Petitioner's net income and took into consideration the appropriate deductions to income. Based on net income of [REDACTED] Petitioner's two person FAP group is eligible for \$49 in monthly FAP benefits. RFT 260 (October 2023), p. 23. 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 calculated Petitioner's FAP benefits for February 2024 through June 2024.

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 he was eligible for MA under a deductible based program. At the hearing, the Department testified that Petitioner had been approved for MA under the G2S category subject to a monthly deductible of \$1,723 for the months of May 2024 through July 2024. Petitioner submitted a redetermination on July 22, 2024, which, as of the hearing request date, had not been processed by the Department. The Department testified that after receiving Petitioner's

request for hearing, it completed the processing of the redetermination on or around September 17, 2024, and determined that Petitioner continued to be eligible for MA under the G2S, but effective October 1, 2024, the deductible increased to \$2,170. Because the processing of Petitioner's redetermination and the increase in his deductible did not occur until after the date in which Petitioner requested a hearing, Petitioner was advised that his eligibility as of the July 30, 2024, request for hearing date will be addressed. See BAM 600.

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 and his wife are both over age 64 and/or enrolled in Medicare, they are not eligible for full coverage MA under the HMP. Thus, the Department properly concluded that Petitioner and his wife were 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 and his wife have a MA fiscal group of two. BEM 211 (October 2023), pp. 5-8. Effective April 1, 2024, an MA fiscal group with two members is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,723.50, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2024), p. 1.

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 and his wife 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 his wife's gross monthly RSDI/Social Security benefits [REDACTED] and Petitioner's gross monthly RSDI/Social Security of [REDACTED]. The Department also properly considered the unearned income general exclusion of \$20 to determine 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 fiscal group's 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 and his wife were ineligible for full coverage MA benefits under the Ad-Care program without a deductible and determined that they 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 two living in Wayne County is [REDACTED] per month. RFT 200 (April 2017), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner and his wife's net monthly income is in excess of the [REDACTED] they may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds [REDACTED]. 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 from May 1, 2024, through July 31, 2024, Petitioner and his wife were eligible for MA under the G2S category with a monthly deductible of \$1,723. At the hearing, the Department representative presented the SSI-Related Medicaid Income Budget to explain the \$1,723 deductible calculation. (Exhibit B). As referenced above, the Department properly considered unearned income from pension and RSDI/Social Security in the gross total amount of [REDACTED].

The Department also properly applied a \$20 unearned income exclusion to determine that Petitioner's group had net unearned income for MA purposes of [REDACTED]. As discussed

above, the evidence was insufficient to show that Petitioner and his wife were responsible for monthly Medicare insurance premiums and no evidence presented that Petitioner submitted any verification of ongoing medical expenses to the Department prior to the hearing. There was 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 [REDACTED] for MA purposes exceeds the monthly protected income level of [REDACTED] by \$1,723, the Department properly calculated Petitioner and his wife's monthly \$1,723 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that for the months of May 2024 through July 2024, Petitioner and his wife were eligible for MA under the G2S program with a monthly deductible of \$1,723.

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 eligibility for MA benefits.

DECISION AND ORDER

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

ZB/ml



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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

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

Via First Class Mail:

Petitioner

██████████
████████████████████
██████████ MI ██████████