



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: October 17, 2024  
MOAHR Docket No.: 24-009997  
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 October 7, 2024. Petitioner appeared and was represented by [REDACTED] who Petitioner designated as his Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Rebecca Scott, Eligibility Specialist, who did not object to Petitioner's request to designate an AHR.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly deny Petitioner's Medicaid (MA) application effective June 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 is an ongoing recipient of FAP for a one-person FAP group.
2. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,499 per month and pension income of \$301.01 per month.

3. On May 20, 2024, the Department received a completed Mid-Certification Contact Notice for FAP from Petitioner. (Exhibit B, pp. 1 – 3).
4. In June 2024, Petitioner took out a home equity loan.
5. On [REDACTED] [REDACTED] 2024, the Department received a completed application for MA from Petitioner. (Exhibit A, p. 1).
6. On August 14, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$23 per month for a one-person FAP group, effective September 1, 2024. (Exhibit A, pp. 15 – 16).
7. On August 15, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that denied Petitioner MA, effective June 1, 2024, due to excess assets. (Exhibit A, p. 23).
8. On August 30, 2024, the Department received a request for hearing from Petitioner that disputed the amount of Petitioner's FAP benefits and denial/closure of Petitioner's MA. (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).

Petitioner requested a hearing to dispute the closure of his MA case and the amount of his FAP benefits. The Department approved Petitioner for FAP benefits of \$23 per month for a one-person FAP group and denied Petitioner for MA due to excess assets.

#### **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 amount of his monthly FAP benefit. The Department approved Petitioner for \$23 per month for a one-person FAP group.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department begins with the client's countable earned and unearned income. BEM 500 (April 2022), pp. 1 – 5. For RSDI and pension income, the Department counts the gross benefit amount as unearned income. BEM 503 (April

2024), pp. 29 – 32. In this case, the Department and Petitioner agreed that Petitioner is a household of one and his total monthly income was from RSDI and pension income in the total amount of \$1,800. (Exhibit A, p. 28).

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Because Petitioner is over 60 years of age, he is 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 (July 2024) p. 1; BEM 556 (May 2024) pp. 4 – 6.

There was no dispute that Petitioner was entitled to, and received, a \$198 standard deduction from his countable income based on his one-person FAP group size. BEM 550, p. 1; RFT 255 (October 2023). (Exhibit A, p. 28). Petitioner did not report any medical expenses or health insurance premiums in excess of \$35 and the Department properly did not include a deduction for medical expenses. (Exhibit A, p. 28). Petitioner also 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. 28).

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. Because the evidence established that Petitioner's gross income was \$1,800 and that he was only entitled to the standard deduction of \$198, his AGI was \$1,602. (Exhibit A, p. 28).

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. The evidence established that when he completed his mid-certification contact form, Petitioner did not report a housing expense. (Exhibit B, pp. 1 – 3). During the hearing, the AHR testified that Petitioner now has a monthly mortgage obligation arising from a home equity loan. While changes in monthly expenses may impact Petitioner's FAP budget calculation (BAM 200 (July 2023), p. 5; BEM 545, page 15), because the Department was not aware of the housing expense prior to the hearing and Petitioner expressly indicated in the mid-certification contact report that he did not have any housing expense, at the time that it calculated Petitioner's FAP budget, the Department properly considered \$0 for housing

expenses. Petitioner is advised to report and verify the expense to the Department for the expense to potentially affect future FAP budgets.

The Department testified that its records reflected that Petitioner was responsible for payment of heat and other utilities. When a FAP group has heating and other utility expenses, separate from a housing expense, 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 utility standard available to FAP groups who pay utilities. BEM 554, p. 17. Until September 30, 2024, the h/u standard amount was \$680. RFT 255 (October 2023). Therefore, the Department properly budgeted Petitioner's housing expense as \$0 and used the h/u standard amount to determine Petitioner's total shelter amount was \$680. (Exhibit A, p. 30).

Once Petitioner's total shelter amount has been determined, the Department must then subtract 50% of Petitioner's AGI from that amount. BEM 556 (May 2024), pp. 5 – 6. This determines Petitioner's excess shelter deduction. When 50% of Petitioner's \$1,602 AGI, in the amount of \$801, is subtracted from the total shelter amount of \$680, Petitioner's excess shelter deduction is \$0. Because Petitioner's excess shelter deduction is \$0, no further reduction is taken from his AGI of \$1,602 and Petitioner's net income is \$1,602. (Exhibit A, pp. 28, 30). The Department's calculations were made consistent with policy.

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 found in RFT 260. Based on Petitioner's one-person FAP group size and net income of \$1,602, the Department properly determined Petitioner's monthly benefit amount of \$23 for September 2024 ongoing. RFT 260 (October 2023), p. 23.

### **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 the Department's denial of MA. The Department denied Petitioner's MA application due to excess assets, effective June 1, 2024.

Petitioner, who is disabled and is not employed, is eligible for MA under SSI-related MA categories only. BEM 105 (January 2024), p. 1. SSI-related MA categories, which includes Group 2 Aged, Blind and Disabled (G2S) and AD-Care, have an asset test and require the Department to consider a client's countable assets when determining

eligibility for those categories. BEM 400 (June 2024), pp. 1, 7. For SSI-related MA categories, the Department must verify the value of countable assets at application, redetermination, and when a change is reported. BEM 400, p. 65. For purposes of SSI-related MA, countable assets include cash and funds in bank accounts, and the value of those assets cannot exceed the applicable asset limit, which is \$2,000 for single individuals, such as Petitioner. BEM 400, p. 9. Although there are higher asset limits for SSI-related MA categories covering employed individuals, there was no evidence that Petitioner was employed or otherwise eligible for MA under those categories. BEM 400, pp. 1 – 2, 7 – 9; BEM 169 (April 2016), p. 1; BEM 174 (January 2020), p. 1.

The Department testified that Petitioner provided the Department with a statement from his credit union as requested and that the statement reflected his credit union accounts to be joint accounts that included checking and savings accounts and a home equity loan. The Department testified that the balance in the checking account was \$[REDACTED] which the Department determined to be in excess of the \$2,000 asset limits for SSI-related MA categories that applied to Petitioner's circumstances. (Exhibit A, p. 27). The AHR testified that, while the joint owner of the account is Petitioner's daughter, the funds and obligations related to the account are Petitioner's and that the funds in the checking account are proceeds from the home equity loan, which Petitioner obtained in June 2024.

For MA, there is no exception in Departmental policy for cash deposits attributable to home equity loan proceeds. BEM 400, pp. 22 – 23. Therefore, the \$[REDACTED] home equity loan deposit in Petitioner's account is a countable asset. However, asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6. Here, there was no evidence concerning the day in June the home equity loan proceeds were deposited into Petitioner account and whether Petitioner had a balance lower than the \$2,000 asset limit for SSI-related MA eligibility any day in June 2024, or what the account balance was throughout July or August 2024 during which time Petitioner's MA application was being processed. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner MA for excess assets for June 2024 ongoing.

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 FAP benefit amount, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner MA for June 2024 ongoing.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to MA.

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's eligibility for MA for June 2024 ongoing, requesting additional verifications if necessary;
2. If eligible, provide Petitioner with the most beneficial MA coverage he is eligible to receive for June 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



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**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  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**DHHS**

Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209

**MDHHS-Wayne-41-Hearings@michigan.gov**

**Interested Parties**

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M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]