



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

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██████████, MI ██████████

Date Mailed: December 5, 2024  
MOAHR Docket No.: 24-011705  
Agency No.: ██████████  
Petitioner: ██████ ██████

**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 November 27, 2024. Petitioner appeared and was represented by their Authorized Hearing Representative (AHR), ██████ ██████. The Department of Health and Human Services (Department) was represented by Rena Pointer, Assistance Payments Worker.

**ISSUE**

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

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective September 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 ██████ years old and his wife (Spouse) is ██████ years old. (Exhibit A, p. 6).
2. On September 23, 2024, the Department received a completed FAP and MA redetermination application from Petitioner that was due by October 4, 2024. Petitioner reported no changes in the household's income, that he and Spouse both had medical expenses, of \$650 and \$895 per month respectively, and that he and Spouse file joint income tax returns. (Exhibit A, pp. 5 – 12).

3. On September 23, 2024, the Department also received verification that:
  - a. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) of \$1,667.70 gross per month and \$174.70 per month is deducted from his RSDI for Medicare Part B,
  - b. Spouse receives RSDI of \$625 gross per month with no deductions, and
  - c. Petitioner receives pension income of \$[REDACTED] gross per month.(Exhibit A, pp. 13 – 15).
4. On October 4, 2024, the Department sent Petitioner a Benefit Notice (BN) that approved Petitioner for MA subject to a monthly deductible of \$993 effective September 1, 2024 ongoing. (Exhibit A, pp. 18 – 21).
5. On October 15, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$23 per month for a two-person FAP group that included Petitioner and Spouse, effective November 1, 2024. (Exhibit A, pp. 22 – 23).
6. On October 17, 2024, the Department received a request for hearing from Petitioner that disputed the Department's determinations regarding FAP and MA. (Exhibit A, pp. 3 – 4).

### **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 Department's determinations regarding his FAP benefit amount and MA coverage. The Department approved Petitioner for FAP benefits of \$23 per month for a two-person group, and approved Petitioner for MA subject to a monthly deductible of \$993. The Department testified, and Petitioner's AHR agreed, that Spouse has a separate MA case.

### **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 disputed the Department's determination that he and Spouse were eligible for \$23 per month in FAP benefits.

The Department must periodically redetermine a client's eligibility for active programs, which includes a thorough review of all eligibility factors. BAM 210 (October 2024), pp. 1, 3. As part of the redetermination process, verification is usually required. BAM 130 (May 2024), p. 1. A FAP group such as Petitioner's, with a senior, disabled, or disabled veteran member (SDV) that has a verified one-time or ongoing medical expense(s) of more than \$35 for a SDV member will receive a standard medical deduction (SMD) of \$165, and if the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554 (October 2024), pp. 9, 13. To request verification of information, the Department is to send the client a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3; see also BEM 554, pp. 13 – 14.

In this case, Petitioner completed a redetermination application for himself and Spouse and reported that he had medical expenses of \$650 per month, and that Spouse had medical expenses of \$895 per month. (Exhibit A, pp. 5 – 12). The Department testified that Petitioner and Spouse are considered SDV and introduced a net income budget at the hearing to show how it determined Petitioner's monthly FAP benefit amount. The budget established that the Department deducted the SMD of \$165 when it determined Petitioner's monthly FAP benefit; however, the budget summary on the NOCA sent to Petitioner on October 15, 2024 reflected that the Department did not consider any deduction for medical expenses when it determined Petitioner's FAP benefits. (Exhibit A, pp. 22 – 23, 29). There was also no evidence or testimony that the Department considered, or requested verification of, Petitioner's or Spouse's reported monthly medical expenses before it issued the NOCA or when it prepared the net income budget introduced at the hearing. Therefore, the Department failed to establish that it acted in accordance with Department policy when it determined the amount of Petitioner's medical deduction for the purpose of determining Petitioner's monthly FAP benefit.

During the hearing, the AHR also testified that Petitioner has a home equity loan with a \$500 per month payment obligation and has had the obligation for many years. The evidence established that the Department did not consider a home equity loan obligation when it determined if Petitioner was eligible for an excess shelter deduction and the amount of any such deduction. (Exhibit A, p. 32). However, there was no evidence that Petitioner previously reported the obligation to the Department. Petitioner's AHR was advised that Petitioner may do so for consideration of his future FAP benefits.

### **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 disputed the Department's approval of him for MA coverage subject to a monthly deductible of \$993.

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 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, he was potentially eligible for AD-Care MA. The AD-Care program is a Group 1, full-coverage, SSI-related MA program for individuals who are income-eligible based on their MA fiscal group size. BEM 163 (July 2017), p. 1. 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 are married are a fiscal group size of two. BEM 211 (October 2023), p. 8. There was no dispute that Petitioner is married; therefore, he is a fiscal group of two. Because he is a fiscal group of two, to be income eligible for this program, Petitioner's group's monthly income would have had to be \$1,703.50 or less. RFT 242 (April 2024). In this case, Petitioner and the Department agree that he receives RSDI income in the gross amount of \$1,667.70 per month plus \$[REDACTED] per month in pension income, and that Spouse receives \$625 per month gross in RSDI income. (Exhibit A, pp. 13 – 15). The total gross amount of the fiscal group's RSDI and pension is counted as unearned income but, for purposes of SSI-related MA, is reduced by \$20 to determine the net unearned income. BEM 503 (October 2024), pp. 29 – 32; BEM 541 (January 2024), p. 3; see also BEM 163. Therefore, Petitioner's fiscal group's RSDI and pension income, reduced by \$20, equals \$2,334 in net unearned income. Petitioner, who does not have earned income, expenses related to non-SSI children, or a court-appointed guardian and/or conservator, is not eligible for any additional deductions. BEM 541, pp. 1, 3. Therefore, Petitioner's countable net income was \$2,334. Because that is more than the limit for AD-Care MA, the Department properly determined Petitioner was not eligible for AD-Care MA.

Clients who are ineligible for full-coverage MA coverage because of excess income may still be eligible for G2S MA, an SSI-related MA program which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible for G2S MA is equal to a) the amount of the fiscal group's SSI-related net income, b) minus allowable needs

deductions set forth in BEM 544, 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); see also BEM 211, p. 2. 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 Macomb County, where Petitioner resides, is \$541 for a two-person fiscal group. RFT 200 (April 2017), p. 3; RFT 240 (December 2013).

In this case, the Department presented a budget showing how Petitioner's G2S deductible was calculated. (Exhibit A, p. 31). The Department's budget reflected that Petitioner's countable net unearned income was \$1,709 (Exhibit A, p. 31) and acknowledged during the hearing that it did not include Spouse's income when it determined Petitioner's monthly deductible of \$993, but did not clearly explain why Spouse's income was omitted. However, because the Department's calculation of income is more favorable to Petitioner, the undersigned will accept it as fact.

From Petitioner's net income of \$1,709, the Department subtracts allowable needs deductions, consisting of health insurance premiums of the MA recipient and remedial services for residents of adult foster care (AFC) or homes for the aged (HA). BEM 544, pp. 1 – 2. No evidence was presented that Petitioner lives in AFC or HA. There was no dispute that Petitioner pays \$174.70 per month for Medicare Part B and the Department included that expense on the budget. (Exhibit A, p. 31). Therefore, when Petitioner's health insurance expense was deducted from his net income, his countable net income was \$1,534.30. (Exhibit A, p. 31). The Department then properly deducted Petitioner's \$541 PIL from Petitioner's \$1,534.30 net income, which left \$993. (Exhibit A, p. 31). This amount becomes the deductible amount. Therefore, the Department properly determined Petitioner's deductible in the amount of \$993 for September 1, 2024 ongoing. (Exhibit A, pp. 18 – 21, 31).

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, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount.

### **DECISION AND ORDER**

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

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 FAP benefits effective November 1, 2024 ongoing, requesting any necessary verifications;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from November 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



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**Caralyce M. Lassner**  
Administrative Law Judge

CML/nr

**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**

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**Via-First Class Mail :**

**Petitioner**

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