



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

██████████  
██████████  
██████, MI ██████

Date Mailed: December 20, 2024  
MOAHR Docket No.: 24-012838  
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 December 16, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Toia Mattison-Brown, Assistance Payments Worker.

The Department's 6-page hearing packet was entered into evidence as Exhibit A.

### **ISSUE**

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

Did the Department take any action on Petitioner's Medicaid (MA) coverage?

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP)?

### **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, not married, has no dependent children, and receives \$1,834 per month in Retirement, Survivors, and Disability Insurance (RSDI) income.
2. Petitioner is an ongoing recipient of FAP.

3. On October 29, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$31 per month, effective December 1, 2024.
4. On October 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved Petitioner for MSP - Non-Categorically Eligible Michigan Beneficiaries (NMB) for August 1, 2024 through September 30, 2024, and denied Petitioner MSP for October 1, 2024 ongoing due to excess income.
5. On November 8, 2024, the Department received a request for hearing from Petitioner regarding the Department's determinations regarding the amount of her FAP benefit, specifically disputing that the budget summary on the NOCA properly reflected her medical expenses, and MA. (Exhibit A, p. 3).
6. On November 19, 2024, the Department sent Petitioner a NOCA that approved Petitioner for FAP benefits of \$62 per month, effective December 1, 2024.
7. On November 19, 2024, the Department sent Petitioner a HCCDN that confirmed its denial of Petitioner's request for MSP effective October 1, 2024 ongoing due to excess income. (Exhibit A, pp. 4 – 6).

### **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 amount of her monthly FAP benefit of \$31 and MA. At the hearing, Petitioner expressed a lack of understanding as to how her FAP benefit amount was determined, concern that the Department cancelled her MA, and disputed denial of MSP. Initially, the Department reduced Petitioner's FAP benefit to \$31 per month, effective December 1, 2024, based on revision of the utility standards on October 1, 2024. Prior to the hearing, the Department increased Petitioner's FAP benefit to \$62 per month effective December 1, 2024. The Department denied Petitioner MSP effective October 1, 2024 ongoing due to excess income and did not take any action as to Petitioner's MA.

### **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 her monthly FAP benefit. At the hearing, Petitioner acknowledged that her FAP benefit was increased to \$62 effective December 1, 2024, but indicated that she did not know how the Department determined that amount.

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, the Department counts the gross benefit amount as unearned income. BEM 503 (October 2024), pp. 30 – 32. In this case, the Department and Petitioner agreed that Petitioner's total monthly income was from RSDI in the amount of \$1,834.

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Because Petitioner is over 60 years of age, she is considered a senior/disabled/veteran (SDV) household. BEM 550 (October 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 (October 2024) p. 1; BEM 556 (October 2024) pp. 4 – 6.

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will 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, pp. 11 – 13.

Although the Department did not provide a budget, it testified as to how it determined Petitioner's FAP benefit amount when it issued the NOCA on November 19, 2024. The Department testified that Petitioner received a \$204 standard deduction from her countable income based on her one-person FAP group size (RFT 255 (October 2024)), and a deduction of \$233 for her actual medical expenses. The Department testified, and Petitioner confirmed, that she did not have any dependent care expenses or court ordered child support expenses and therefore, it did not include a deduction for either of those expenses.

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 Petitioner's

gross income of \$1,834, and the Department's testimony that it deducted the standard deduction of \$204, and allowed medical expenses of \$233, Petitioner's AGI was \$1,397.

To complete the excess shelter deduction calculation, the Department reviewed Petitioner's housing and utility expenses. The Department testified, and Petitioner did not dispute, that Petitioner had a housing expense of \$665 per month and was responsible for payment of her heat and other utilities. When a FAP group has heating and other utility expenses, separate from their housing 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 \$664 (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.

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, pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$665 and the h/u standard of \$664 was \$1,329. When 50% of Petitioner's \$1,397 AGI, in the amount of \$699, is subtracted from the total shelter amount of \$1,329, Petitioner's excess shelter deduction was \$631, which is what the Department testified it determined. When Petitioner's excess shelter deduction of \$631 is subtracted from her AGI of \$1,397, the Department testified that Petitioner's net income is \$766. 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 \$766, the Department properly determined Petitioner's monthly benefit amount of \$62 for December 2024 ongoing. RFT 260 (October 2024), p. 11.

### **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 regarding MA. During the hearing, Petitioner testified that she requested the hearing because she received correspondence from a third party indicating that her MA coverage was cancelled. The Department denied that Petitioner's MA was cancelled.

Clients have the right to contest Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600 (June 2024), p. 1. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides that an opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice from the Department of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to consider the recipient's choice of service. See also BAM 220 (November 2023), p. 2.

The Department testified that Petitioner has ongoing MA coverage subject to a monthly deductible of \$1,093, and Plan First Family Planning (PFFP) and had no record of cancellation of Petitioner's MA. Petitioner testified that she received a letter from Molina dated September 26, 2024 that stated or implied that effective January 1, 2025, she will be disenrolled from MA. However, there was no evidence that the Department cancelled or is cancelling Petitioner's MA.

Therefore, because there has been no evidence of any action taken by the Department to cancel Petitioner's MA, there is no hearable issue for the undersigned Administrative Law Judge to decide and Petitioner's request for hearing as to MA is dismissed for lack of jurisdiction.

### **MSP**

Petitioner disputed the Department's denial of her MSP. The Department denied Petitioner MSP effective October 1, 2024 due to excess income.

MSPs are SSI-related MA categories providing assistance with eligible individual's Medicare expense and, effective June 1, 2024, are divided into four types: (i) Qualified Medicare Beneficiaries (QMB), (ii) Specified Low-Income Medicare Beneficiaries (SLMB), (iii) Q1 Additional Low-Income Medicare Beneficiaries (ALMB), and (iv) Non-Categorically Eligible Michigan Beneficiary (NMB). BEM 165 (July 2024), p. 1. Income is the major determiner of category, and the category with the highest net income limit is ALMB, which has a limit of 135% the federal poverty level (FPL) for the fiscal group. BEM 165, pp. 1, 8. Eligibility for NMB exists when a client has income and assets in excess of MSP – ALMB limits but has full coverage MA with Medicare Part A and B entitlement. BEM 165, p. 1.

Because Petitioner is not married, for purposes of SSI-related MA, she is a fiscal group of one. BEM 211 (October 2023), p. 8. For 2024, 100% of the FPL for a group of one is \$1,255 per month, and 135% of the FPL is \$1,694.25 per month. RFT 242 (April 2024); 89 Fed Reg 2961. For purposes of MSP, countable income is determined in accordance with SSI-related MA policies. BEM 165, p. 8. Here, where Petitioner has no dependent children, child support obligation, or guardianship/conservatorship expenses, Petitioner is entitled only to a \$20 disregard, or reduction, of her RSDI

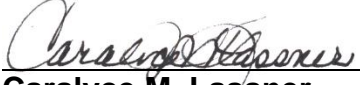
income. BEM 541, pp. 1 – 7. Therefore, Petitioner's RSDI income, reduced by \$20, equals \$1,814 in net unearned income. Because \$1,814 is more than the maximum net income limit of \$1,694.25 for MSP – ALMB, the Department properly determined that Petitioner was not eligible for MSP.

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 there was no hearable issue presented regarding Petitioner's MA, and that the Department acted in accordance with Department policy when it determined Petitioner's FAP benefit amount and determined Petitioner was not eligible for MSP.

### **DECISION AND ORDER**

Accordingly, Petitioner's request for hearing as to MA is **DISMISSED** for lack of jurisdiction, and the Department's decisions as to FAP and MSP are **AFFIRMED**.

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**

Tracey Jones  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033

**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4

M. Holden

N. Denson-Sogbaka

B. Cabanaw

M. Schaefer

EQAD

MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED], MI [REDACTED]