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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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[REDACTED], MI [REDACTED]

Date Mailed: January 2, 2025
MOAHR Docket No.: 24-013057
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via Microsoft Teams on December 23, 2024; the parties participated by telephone. Petitioner participated and was unrepresented. Wendy Kassawa, Petitioner's sister-in-law, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) did not participate despite being given more than 15 minutes from the scheduled hearing time to call.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly processed Petitioner's medical expenses towards a Medicaid deductible.

The third issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of September 2024, Petitioner was disabled, over the age of 21 years, not a caretaker of minor children, not pregnant, and a Medicare recipient.

2. As of September 2024, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,288.
3. As of September 2024, Petitioner resided alone and had no dependent care or child support expenses.
4. As of September 2024, Petitioner had housing expenses of \$151 and responsibility for heating and/or cooling expenses.
5. As of September 2024, Petitioner submitted to MDHHS documents verifying an unspecified amount of medical expenses.
6. On October 31, 2024, MDHHS determined Petitioner was eligible for the limited-coverage MA category of Plan First and Medicaid subject to a monthly deductible of \$893.
7. On October 31, 2024, MDHHS determined Petitioner to be eligible for monthly FAP benefits of \$48 beginning November 2024.
8. As of November 18, 2024, for unspecified reasons, MDHHS did not process medical expenses towards Petitioner's Medicaid deductible.
9. On November 18, 2024, Petitioner requested a hearing to dispute Medicaid eligibility and the processing of medical expenses towards a deductible. Petitioner additionally disputed a reduction in FAP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of Medicaid eligibility. MDHHS did not bother to submit a hearing packet with written notice of the disputed action; MDHHS also did not participate in the hearing. Petitioner credibly testified that MDHHS sent a Health Care Coverage Determination Notice on October 31, 2024, stating that Petitioner was eligible for Medicaid subject to an \$893 monthly deductible and the limited-coverage MA category of Plan First beginning December 2024.¹

¹ Plan First is a MAGI-related limited-coverage MA category available to any United States citizen or individual with a qualified immigration status. BEM 124 (July 2023) p. 1. Plan First coverage is a "limited-

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.² *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

Petitioner's testimony agreed that she was at least 21 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant. As a non-pregnant, non-caretaker, Medicare recipient above the age of 21 years, Petitioner is ineligible for all full-coverage MAGI-related categories. As a disabled and/or aged individual, Petitioner is potentially eligible to receive full-coverage MA under the Group 1 SSI-related category of Aged/Disabled Care (AD Care). BEM 163 (July 2017) p. 1.

At all relevant times, Petitioner was without minor children and did not reside with a spouse. For purposes of AD-Care, Petitioner's group size is one. BEM 211 (October 2023) p. 8.

As of the disputed benefit month, Petitioner received gross monthly RSDI of \$1,288. Generally, MDHHS counts the gross amount of RSDI in determining Medicaid eligibility.³ BEM 503 (January 2023) p. 29. Petitioner's RSDI of \$1,288 is countable for AD-Care.

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$20 disregard is given for unearned income. BEM 541 (July 2019) p. 3. Subtracting the \$20 disregard from Petitioner's RSDI results in countable income of \$1,268.

coverage" because it only covers family planning services such as birth control (see form DCH-2840-MSA).

² Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

³ Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable.

MDHHS also gives AD-Care budget credits for employment income, guardianship expenses, and/or conservator expenses. Cost of living adjustments (COLA) are applicable for the benefit months of January through March only. BEM 503 (January 2023) p. 29. No applicable expenses were alleged.

Net income for AD-Care cannot exceed 100% of the federal poverty level BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a one-person group residing in Michigan is \$15,060.⁴ Dividing the annual FPL by 12 results in a monthly income limit of \$1,255. The same income limit is found in policy.⁵ RFT 242 (April 2024) p. 1. Petitioner's countable income exceeds the AD-Care income limit. Given the evidence, MDHHS properly determined Petitioner to be ineligible for MA under any Group 1 MA category other than Plan First.⁶

Though Petitioner is ineligible for MA benefits under AD-Care or any other Group 1 category, Petitioner may still receive MA under a Group 2 category. For Group 2 categories, eligibility is possible even when net income exceeds the income limit for a Group 1 category; this is possible because incurred medical expenses are used when determining eligibility. BEM 105 (January 2023) p. 1. Group 2 categories are considered a limited MA benefit because a deductible is possible. *Id.* For aged/disabled persons, G2S is the applicable Group 2 MA category (see BEM 166).

Clients with a deductible may receive MA if sufficient allowable medical expenses are incurred.⁷ BEM 545 (April 2018), p. 11. Each calendar month is a separate deductible period. *Id.* The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*

Petitioner's gross countable income of \$1,288 is unchanged for G2S. The G2S budget allows a \$20 disregard for unearned income and various employment income disregards. The G2S budget also factors ongoing medical expenses (which are applied toward a deductible), insurance premiums, and remedial services. No applicable expenses were alleged.

A client's deductible is calculated by subtracting the protected income level (PIL) from the client's net income. A PIL is a standard allowance for non-medical need items such as shelter, food, and incidental expenses. The PIL for Petitioner's shelter area and group size is \$375. RFT 240 (December 2013) p. 1.

⁴ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

⁵ MDHHS policy lists an income limit of \$1,275 while noting the \$20 disregard is factored into the limit.

⁶ Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First. The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

⁷ Clients should be aware that medical expenses need only be incurred, and not necessarily paid, to meet a deductible/spenddown.

Subtracting the PIL of \$375 and \$20 disregard from Petitioner's countable income of \$1,288 results in a monthly deductible of \$893; MDHHS calculated the same deductible.⁸ Thus, MDHHS properly determined Petitioner's Medicaid eligibility.

Petitioner also requested a hearing to dispute MDHHS's alleged failure to process submitted medical expenses towards a Medicaid deductible. Petitioner's hearing request indicated that Petitioner submitted medical expenses reports on October 24, 2024.⁹

Petitioner testified that she has a chore service provider who has not been paid since November 2023.¹⁰ Petitioner also testified that she submits proof of medical expenses to MDHHS monthly; specifically, Petitioner testified she called MDHHS on November 15, 2024, to report \$1,300 in chore service expenses.

MDHHS failed to provide sufficient evidence it properly did not approve Petitioner as meeting a Medicaid deductible. Given that the burden lies with MDHHS to prove it acted correctly, MDHHS will be ordered to reprocess Petitioner's documentation to determine if a deductible was met. Because Petitioner did not present documentation verifying acceptable medical expenses were submitted, MDHHS will not be ordered to reprocess with any specificity.¹¹

Petitioner lastly requested a hearing to dispute a reduction in FAP benefits. Again, MDHHS did not bother to include a notice in its hearing packet or participate in the hearing. Petitioner testified credibly that MDHHS sent a notice on October 31, 2024, stating that FAP benefits would be reduced to \$48 beginning November 2024.¹²

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented no evidence of how Petitioner's FAP eligibility was calculated. Petitioner credibly testified to the budget factors listed on the disputed reduction notice. During the hearing, all relevant budget factors were discussed with Petitioner.

⁸ MDHHS presented no budget verifying its deductible calculation. Instead, it inexplicably presented a budget approving Petitioner for MSP benefits. Exhibit A, p. 20.

⁹ Petitioner's hearing request also indicated she submitted a Medical Needs form to MDHHS on October 29, 2024. A Medical Needs form is relevant in establishing a client's medical needs but not relevant to establishing medical expenses.

¹⁰ Petitioner added that she is battling colon cancer, breast cancer, fibromyalgia, and depression and that a chore services provider is imperative for the completion of daily needs.

¹¹ In other words, if MDHHS does not find that it erred, a reprocessing may result in the same outcome. If Petitioner disagrees with the outcome following reprocessing, she may again request a hearing.

¹² Petitioner testified that she received notice of a further reduction in FAP benefits to \$34 beginning January 2025 on December 7, 2024. The reduction appeared to be the result of an increase in RSDI.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including only Petitioner. Petitioner did not dispute the group size one person.¹³

It was not disputed that Petitioner's only income derived from \$1,288 in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Petitioner's countable income for FAP is \$1,288.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (February 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members. *Id.* Groups with an SDV member who has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. *Id.*, p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.* Groups with an SDV member also have an uncapped excess shelter expense. *Id.*

Petitioner acknowledged having no child support or dependent care expenses. Based on Petitioner's receipt of RSDI, it is presumed that Petitioner is senior and/or disabled; thus, medical expenses are countable.

MDHHS is to count allowable verified medical expenses at redetermination. BEM 554 (February 2024) p. 9. Countable medical bills must not be overdue; thus, they must either be currently billed, currently incurred, or under a payment arrangement before the bill became overdue. *Id.* Generally, MDHHS requires a date of service to verify that the bill is not overdue.

MDHHS budgeted \$0 in medical expenses for Petitioner's FAP eligibility. MDHHS failed to provide any evidence it properly calculated Petitioner's medical expenses to be \$0. Petitioner testified she submitted to MDHHS medical expenses; however, Petitioner did not present the documentation as evidence. Given that the burden lies with MDHHS to prove it acted correctly, a reprocessing of the disputed determination is proper. However, due to a lack of evidence, it cannot be stated that \$0 medical expenses was incorrect: it can only be concluded that MDHHS failed to establish that \$0 medical expenses was correct. Like the remedy for reprocessing medical expenses towards a deductible, MDHHS will be ordered to reprocess FAP eligibility, but without any specifics on how to reprocess.¹⁴ Only for purposes of simplifying the remaining FAP budget analysis, it will be accepted that MDHHS properly budgeted Petitioner's medical expenses as \$0.

¹³ See BEM 212 for policies on determining group size for FAP benefits.

¹⁴ In other words, if MDHHS does not find that it erred, a reprocessing may result in the same outcome. If Petitioner disagrees with the outcome, she may again request a hearing.

Petitioner's FAP benefit group size justifies a standard deduction of \$204 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$204) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$1,288) results in an adjusted gross income of \$1,084.

MDHHS credited Petitioner with monthly housing expenses of \$151 (rounding to nearest dollar); Petitioner did not dispute the housing expense amount. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$664. RFT 255 (October 2024) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.¹⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$815.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$273.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$811 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.¹⁶ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for November 2024 is \$23 (assuming \$0 medical expenses is correct): the same amount calculated by MDHHS.

Given the evidence, MDHHS properly determined Petitioner's FAP eligibility beginning November 2024, other than establishing that medical expenses were properly calculated. As a remedy, Petitioner is entitled to a reprocessing of FAP benefits.

¹⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

¹⁶ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for Plan First and Medicaid subject to a \$893 monthly deductible beginning November 2024. Concerning Medicaid eligibility beginning November 2024, the actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly determined Petitioner's FAP eligibility. MDHHS also failed to establish that Petitioner did not meet a Medicaid deductible. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning November 2024 subject to the finding that MDHHS failed to establish it properly processed Petitioner's reported medical expenses;
- (2) Reprocess whether Petitioner met a Medicaid deductible subject to the finding that MDHHS failed to establish it properly processed Petitioner's reported medical expenses; and
- (3) Issue notice and supplements, if any, in accordance with policy.

Concerning a Medicaid deductible and FAP eligibility beginning November 2024, the actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
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

Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212

MDHHS-Wayne-55-Hearings@michigan.gov

Interested Parties

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Petitioner

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