



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA  
DIRECTOR

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

Date Mailed: January 28, 2025  
MOAHR Docket No.: 24-013925  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 January 23, 2025. Petitioner was present along with witness ██████████ her fiancé. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly determine Petitioner's Medicaid (MA) eligibility?

Did the Department properly calculate Petitioner's 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 coverage and FAP benefits.
2. Petitioner is ██████ years old, unmarried, and lives alone in ██████ County.
3. Petitioner receives two monthly Retirement Survivors Disability Insurance (RSDI) payments, which totaled ██████ in December 2024 and ██████ for January 2025 ongoing.
4. The State pays Petitioner's Part B Medicare premiums.
5. On September 19, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) notifying her that she was eligible for Plan First Family Planning (PFFP) MA coverage. (Exhibit A, pp. 6-9)

6. On December 16, 2024, the Department received Petitioner's hearing request disputing the Department's MA decision and her FAP monthly allotment, and notifying the Department that she was no longer employed.
7. On December 19, 2024, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits had increased from \$159 to \$172 effective January 2025. (Exhibit A, pp. 14-20)

### **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 disputing her MA coverage and her FAP amount.

#### **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 connection with the December 16, 2024 hearing request disputing her FAP benefit amount, Petitioner attached a Notice of Case Action dated September 7, 2024 approving her for monthly FAP benefits of \$159 effective October 1, 2024. Because the hearing request was received more than 90 days from the date of the September 7, 2024 notice, a review of FAP benefits is limited to benefits for December 2024, when the hearing request was received, ongoing. BAM 600 (June 2024), pp. 5-6. The Department testified that Petitioner received FAP benefits of \$159 for December 2024, \$172 for January 2025, and, after her employment income was no longer budgeted, was due to receive \$292 for February 2025 ongoing. Petitioner, who lives alone, has a single-person FAP group. \$292 is the maximum FAP benefits a single-person FAP group is eligible to receive. RFT 260 (October 2024), p. 1. Because Petitioner was approved for the maximum FAP benefits for February 2025 ongoing, the FAP calculations for only December 2024 and January 2024 are considered.

Because the Department did not provide FAP budgets for December 2024 and January 2025, the budgets on the Notices of Case Action were reviewed. The budget in the September 7, 2024 Notice of Case Action showed the calculation of FAP benefits of \$159 that were issued to Petitioner in December 2024. The budget in the Notice showed that the Department budgeted monthly gross earned income of [REDACTED] and monthly gross unearned RSDI income of [REDACTED] which Petitioner did not dispute. The Department

counts the gross RSDI benefit amount as unearned income and gross income from employment wages as earned income. BEM 503 (April 2024), p. 30; BEM 501 (October 2024), p. 7.

Gross income is reduced by allowable deductions. Petitioner, who is over age 60, is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (February 2024), pp. 1-2. For FAP groups with one or more SDV members and earned income, the Department must reduce the household's gross monthly unearned income by the following deductions: the earned income deduction totaling 20% of Petitioner's earned income; the standard deduction (based on group size); child care expenses; child support expenses; if the SDV member incurs out-of-pocket medical expenses exceeding \$35 but less than \$200, a medical expense deduction of \$165 or, for verified out-of-pocket medical expenses exceeding \$200, the amount of verified expenses less \$35; and the excess shelter deduction. BEM 554 (October 2024) p. 1; BEM 556 (May 2024), pp. 3-5.

Based on gross earned income of [REDACTED] Petitioner was eligible for a \$108 earned income deduction. Petitioner, as a single-person FAP group, was eligible for a \$204 standard deduction to gross income, as shown on the budget. RFT 255 (October 2024), p. 1. There was no evidence that Petitioner had child care expenses or child support expenses. Therefore, Petitioner was not eligible for deductions for such expenses. The budget included a medical deduction of \$165, which is the standard medical deduction (SMD) for clients who have verified out-of-pocket medical expenses greater than \$35 but less than \$200. Because Petitioner acknowledged that she did not have medical expenses exceeding \$200, the \$165 SMD shown on the budget was the highest medical expense deduction she was eligible for. Based on Petitioner's available deductions (excluding the excess shelter deduction), Petitioner has an adjusted gross income (AGI) of [REDACTED] the difference between her household's gross income of [REDACTED] and the [REDACTED] earned income deduction, the \$204 standard deduction, and the \$165 SMD. BEM 556, p. 4.

The final deduction applicable to the calculation of Petitioner's net income for FAP purposes, the excess shelter deduction, is based on Petitioner's monthly housing expense and the utility standards applicable to Petitioner's case based on the utilities she is obligated to pay. This sum is reduced by 50% of his AGI to arrive at her excess shelter deduction. BEM 556, pp. 4-5; BEM 554, pp. 13-24.

The budget on the September 7, 2024 Notice of Case Action showed that Petitioner paid \$1125 in monthly housing expenses, which Petitioner confirmed. The budget also showed that the Department applied the \$664 heat and utility (h/u) standard, which covers all heat and utility costs and is the maximum total utility and most beneficial standard available to a client. See BEM 554, pp. 16-21; RFT 255 (October 2024), p. 1. The sum of the housing expense and h/u standard results in monthly shelter expenses of \$1789. This amount, less [REDACTED] (50% of Petitioner's [REDACTED] AGI), results in a \$1045 excess shelter deduction. Because Petitioner is an SDV member of her FAP group, she is not subject to a cap on the amount of her excess shelter deduction. BEM 556, p. 6.

Petitioner's AGI of [REDACTED] less the \$1045 excess shelter deduction results in net income of [REDACTED] Based on net income of [REDACTED] and a group size of one, Petitioner was eligible for

FAP benefits totaling \$159. RFT 260 (October 2023), p. 9. This is consistent with the Department's calculation.

On December 19, 2024, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were increasing to \$172 effective January 1, 2025. The budget included with the Notice showed the following changes: earned income increased from [REDACTED] to [REDACTED] unearned income decreased from [REDACTED] to [REDACTED] rent decreased from \$1125 to \$1025, and an internet deduction of \$50 was added. While the internet deduction was due to a change in Department policy (BEM 554, p. 26), the Department did not present any evidence at the hearing to explain the changes in earned and unearned income and housing expenses. It is also noted that Petitioner notified the Department of her loss of employment on December 16, 2024 in her hearing request, but the earned income was not removed from her FAP budget until February 2025. Department policy provides that "income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date." BEM 505 (October 2023), p. 11. For a change reported on December 16, 2024, the loss of income should affect the January 2025 allotment if verification was requested and timely provided. Therefore, the Department did not act in accordance with Department policy when it calculated Petitioner's FAP benefits for January 2025 to include earned income.

Therefore, although the December 2024 FAP allotment was calculated in accordance with Department policy, the January 2025 FAP allotment was not.

### **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.

The Department testified that Petitioner was approved for MA coverage under the Group 2 SSI-related (G2S) program with a monthly deductible of \$1119 through January 2025 and \$997 starting February 2025.

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. Individuals may also qualify for limited MA coverage under the Plan First Family Planning (PFFP) program. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), 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.

Because Petitioner is a Medicare recipient and over age 65 and is not the parent or caretaker of a minor child, Petitioner is eligible for MA under an SSI-related category only. Petitioner, who had received full coverage MA under the Freedom to Work (FTW) program, which is an SSI-related MA category, was no longer eligible for FTW coverage once she turned 65. BEM 174 (October 2024), p. 1. In determining any other SSI-related MA category Petitioner is eligible for, MDHHS must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. Beginning in January 2025, Petitioner had only gross unearned RSDI income totaling [REDACTED]. Because cost-of-living-adjustments (COLA) for RSDI income are not considered for January, February and March MA budgets, Petitioner's MA eligibility determination for January 2025 begins with consideration of her 2024 RSDI income of [REDACTED]. To determine net income, Petitioner's gross RSDI income of [REDACTED] was reduced by a \$20 disregard, which is the only deduction available to Petitioner under policy after Petitioner stopped receiving earnings and where Petitioner was not responsible for court-ordered child support, did not incur blind- or impairment-related work expenses, was not the caretaker of a minor child, and did not have guardianship or conservator expenses. BEM 541 (January 2024), pp. 1-3. This results in net income of [REDACTED] for MA purposes.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which has an income limit of [REDACTED] for a single-person MA group. BEM 163 (July 2017), p. 2; RFT 242 (April 2024), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, disabled clients and clients over age 65 who are not eligible for full-coverage MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1. The deductible is in the amount that a client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL). The PIL is a set amount for non-medical need items such as shelter, food and incidental expenses. The PIL is identified in policy based on the client's MA fiscal group size and county of residence. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED] County, is \$408 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) exceeds \$408, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that monthly net income, less allowable deductions, exceeds \$408. BEM 545 (July 2022), pp. 2-3.

Although the Department did not present an SSI-related MA budget showing the calculation of Petitioner's deductible, the evidence presented at the hearing was considered in reviewing the deductible calculation. In determining the deductible, a client's net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or homes for the aged.

BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged and, as such, is not eligible for any remedial service allowances. Petitioner acknowledged that the State paid her Part B Medicare premium and she paid no other health insurance premiums. Therefore, Petitioner had no allowable needs deductions to her net income. As discussed above, Petitioner's net income for January, February and March is [REDACTED]. This net income reduced by the \$408 PIL results in a deductible of \$997, consistent with the Department's testimony regarding Petitioner's deductible for February 2025 ongoing. Thus, the Department properly determined Petitioner's eligibility for SSI-related MA with a monthly deductible.

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 December 2024 FAP benefits and her MA eligibility under the G2S program but did not act in accordance with Department policy when it calculated Petitioner's January 2025 FAP benefits.

### **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. Recalculate Petitioner's FAP benefits for January 2025;
2. If eligible, issue supplements for FAP benefits Petitioner was eligible to receive for January 2025 but did not; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



**Alice C. Elkin**

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  
EQAD  
M. Schafer  
M. Holden  
B. Cabanaw  
N. Denson-Sogbaka

**Via-First Class Mail :**

**Petitioner**

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