

Date Mailed: May 8, 2025

Docket No.: 25-013504

Case No.: [REDACTED]

Petitioner: [REDACTED] [REDACTED]

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 May 5, 2025. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Marcella Towns, Assistance Payments Worker and Assistant Hearings Coordinator.

ISSUE

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

Did the Department properly determine Petitioner's Medicaid (MA) 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. On January [REDACTED] 2025, the Department sent Petitioner a redetermination application for FAP and MA. Petitioner completed and returned the application to the Department. Petitioner reported that he is a [REDACTED] year old single individual who lives in Wayne County, and receives Retirement, Survivors, and Disability Insurance (RSDI) income of \$[REDACTED] per month and has no other income. Petitioner also reported that he has monthly expenses for housing, heat and other utilities, and medical expenses. He did not report having an internet expense. (Exhibit A, pp. 4 – 11).
2. On March [REDACTED] 2025, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved Petitioner for Plan First Family Planning (PFFP) MA and Group 2 SSI-related (G2S) MA subject to a monthly deductible of \$[REDACTED] effective April 1, 2025 ongoing. (Exhibit A, pp. 12 – 15).

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3. On March ■■■ 2025, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$■■■ per month for a one-person FAP group effective March 1, 2025 ongoing. (Exhibit A, pp. 18 – 22).
 4. On March 13, 2025, the Department received a request for hearing from Petitioner regarding the Department's determinations regarding his MA eligibility and the amount of his monthly FAP benefit. (Exhibit A, p. 3).

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).

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.

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 determination regarding the amount of his monthly FAP benefit and his MA coverage. The Department determined Petitioner was eligible for FAP benefits of \$■■■ per month for a one-person FAP group, and eligible for PFFP and G2S MA subject to a monthly deductible.

FAP

Petitioner requested a hearing to dispute the amount of his monthly FAP benefit. The Department approved Petitioner for FAP benefits of \$■■■ per month effective March 1, 2025 ongoing.

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 income, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2025), pp. 30 – 32. In this case,

the Department and Petitioner agreed that Petitioner's total monthly income was from RSDI in the amount of \$[REDACTED]

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) FAP recipient. BEM 550 (October 2024), pp. 1 – 2. 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 (January 2025) p. 1; BEM 556 (October 2024) pp. 4 – 6.

SDV FAP recipients who verify a one-time or ongoing medical expense in excess of \$35 receive a standard medical deduction (SMD) of \$165 for the benefit period, unless the client has and verifies actual non-reimbursable portions of medical expenses in a higher amount. BEM 554, pp. 9 – 13. A SDV FAP recipient with an ongoing medical expense, including costs of transportation necessary to secure medical treatment or services, of more than \$35 is entitled to at least the SMD. BEM 554, p. 9. Once an SDV group member has verified an ongoing medical expense, re-verification is only required if the expense is questionable. BEM 554, p. 13. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP, the Department allows the client ten calendar days to provide the requested verification and verifications are considered timely if received by the date that they are due. BAM 130, p. 7.

Here, the Department introduced a budget to establish how it determined Petitioner's monthly FAP benefit amount. (Exhibit A, p. 27). There was no dispute that Petitioner was the only member of his FAP group and the budget established that the Department properly deducted the \$204 standard deduction for a one-person FAP group. RFT 255 (October 2024). The Department testified, and Petitioner confirmed that he 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. However, Petitioner reported on his redetermination application that he has medical expenses of \$[REDACTED] per month and explained during the hearing that his expenses are incurred for transportation to and from his medical appointments at the Veterans Affairs (VA) hospital in Ann Arbor, but the Department did not include a deduction for medical expenses when it determined Petitioner's monthly FAP benefit. Additionally, there was no testimony or evidence to establish whether Petitioner previously verified his medical expenses or if the Department

requested any verifications from him before it determined his monthly FAP benefit amount.

Next, the Department determines any excess shelter expense deduction. However, because calculation of any excess shelter deduction depends on Petitioner's adjusted gross income (AGI), which is determined by subtracting the allowable deductions outlined above from Petitioner's countable income, and the Department did not establish that it properly budgeted \$0 for Petitioner's medical expenses, the Department could not establish that it properly calculated Petitioner's excess shelter deduction.

Therefore, based on the totality of the evidence, the Department failed to establish that it acted in accordance with Department policy when it determined Petitioner's monthly FAP benefit amount effective March 1, 2025 ongoing.

It is noted that Petitioner also specifically disputed the Department's failure to consider each of his individual utility expenses when it determined his FAP benefit amount. However, when a client has heating and other utility expenses separate from the rental payment, it is entitled to a heat and utility (h/u) standard amount of \$664 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; RFT 255 (October 2024). In addition to heat and utilities, if a client has an internet expense, they are also entitled to a \$50 standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 26. No additional utility deductions are used to determine a client's excess shelter deduction.

MA

Petitioner also disputed the Department's determination regarding his MA coverage. The Department approved Petitioner for PFFP MA and G2S MA subject to a monthly deductible of \$1,271. During the hearing, Petitioner expressed that his primary concern was that he was not approved for full coverage MA.

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, has RSDI income only, and there was no evidence he was 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 not married, such as Petitioner, are a fiscal group size of one. BEM 211 (October 2023), p. 8. Because he is a fiscal group of one, to be income eligible for this program, Petitioner's monthly income would have to be \$1,305 or less. RFT 242 (April 2025).

As explained previously, Petitioner and the Department agree that he receives RSDI income of \$[REDACTED]. The total gross amount of RSDI as unearned income but, for purposes of SSI-related MA, is reduced by \$20 to determine the net unearned income. BEM 503, pp. 30 – 32; BEM 541 (January 2025), p. 3; see also BEM 163. Petitioner's RSDI of \$[REDACTED] reduced by \$20, equals \$[REDACTED] 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 \$[REDACTED]. 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, a 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 individual's SSI-related net income, b) minus allowable needs deductions set forth in BEM 544, and c) minus the applicable Group 2 MA protected income level (PIL). BEM 166 (April 2017), p. 2; BEM 541, pp. 1, 3 – 4; BEM 544 (January 2020). 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 Wayne County, where Petitioner resides, is \$375 for a one-person fiscal group. RFT 200 (April 2017), p. 2; RFT 240 (December 2013).

In this case, the Department presented a budget showing how Petitioner's G2S deductible was calculated (Exhibit A, p. 30), and as discussed above, Petitioner's net income was \$[REDACTED]. From Petitioner's net income of \$[REDACTED] 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. Petitioner testified that he does not live in AFC or HA or pay any health insurance premiums himself. Based on the evidence and testimony, the Department properly determined Petitioner was not eligible for any further deductions from his current net income and his countable income remained \$[REDACTED].

The Department then deducted Petitioner's \$375 PIL from Petitioner's \$[REDACTED] countable net income, which left \$[REDACTED]. This amount becomes the deductible amount. Therefore, the Department properly determined Petitioner's monthly deductible in the amount of \$[REDACTED] effective April 1, 2025 ongoing.

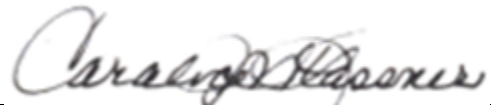
DECISION AND ORDER

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 eligibility for MA, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount effective March 1, 2025 ongoing.

Accordingly, the Department's decision is **AFFIRMED** as to MA and **REVERSED** as 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 March 1, 2025 ongoing;
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, effective March 1, 2025 ongoing; and
3. Notify Petitioner of its decision in writing.



CARALYCE M. LASSNER
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules

(MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via Electronic Mail:

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