



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
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 18, 2023
MOAHR Docket No.: 23-005982
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 12, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (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. Petitioner was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
2. On August 9, 2023, Petitioner completed a redetermination related to her MA benefit case (Exhibit A, pp. 13-19).
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) income in the gross amount of \$1,282 per month (Exhibit A, pp. 20-22).
4. Petitioner had income from employment.

5. On August 14, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective September 1, 2023, ongoing (Exhibit A, pp. 7-10).
6. On August 24, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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 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.

In this case, Petitioner completed a redetermination related to her MA benefit case in August 2023. Petitioner was an ongoing MA recipient under the full-coverage HMP MA program. However, the Department determined that Petitioner was no longer eligible for MA benefits under the HMP program.

Petitioner is a Medicare recipient. As such, the Department testified that she does not qualify for MA benefits under the Health Michigan Plan (HMP) program. The HMP program provides health care coverage for individuals who are: (i) 19-64 years of age; (ii) do not qualify for or are not enrolled in Medicare; (iii) do not qualify for or are not enrolled in other Medicaid programs; (iv) are not pregnant at the time of application; (v) meet Michigan residency requirements; (vi) meet Medicaid citizenship requirements; and (vii) have income at or below 133% of the Federal Poverty Level. BEM 137 (January 2018), p. 1. As Petitioner is a Medicare recipient, the Department properly concluded she is not eligible for HMP benefits.

The Department also concluded that Petitioner was not eligible for Plan First MA because her income exceeded the applicable income limit for her group size. Plan First is MAGI-related MA program. An individual is eligible for Plan First if her household's net income does not exceed 195% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 124, p. 2. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (April 2022), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the

highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner has a household size of one. BEM 211 (July 2019), pp. 1-2. 200% of the annual FPL in 2023 for a household with one member is \$29,160. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$2,430. Therefore, to be income eligible for Plan First, Petitioner's income cannot exceed \$29,160 annually or \$2,430 monthly.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/> and BEM 500 (April 2022), p. 4. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

The Department presented Petitioner's State Online Query (SOLQ) report showing that Petitioner receives \$1,282 in monthly gross RSDI income. Per policy, the gross RSDI amount is considered. Additionally, Petitioner had income from employment. The Department used Petitioner's statement that she receives employment income in the gross amount of \$[REDACTED] per week. Petitioner testified at the hearing she does not have any withholdings for insurance or retirement. Petitioner's \$[REDACTED] week income rate results in a monthly income amount of \$[REDACTED]. Petitioner's RSDI income of \$1,282, combined with her employment income of \$[REDACTED] results in a total household income amount of \$[REDACTED]. As stated above, with the 5% disregard, the income limit for a group size of one under the Plan First MA program is \$2,430. Therefore, the Department did not act in accordance with policy when it determined Petitioner's MA eligibility under the Plan First MA program. Therefore, the Department failed to act in accordance with Department policy when it closed Petitioner's MA benefit case.

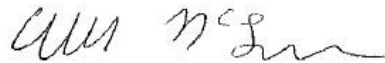
DECISION AND ORDER

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 did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

Accordingly, the Department's decision is **REVERSED**.

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 MA eligibility as of September 1, 2023, ongoing;
2. If Petitioner is eligible for MA benefits, provide coverage for benefits she is entitled to receive; and
3. Notify Petitioner of its decision in writing.



EM/tm

Ellen McLemore
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
M. Schaefer
EQADHearings
BSC4

Via-First Class Mail :

Petitioner

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