



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]  
[REDACTED], MI [REDACTED]

Date Mailed: January 18, 2024  
MOAHR Docket No.: 23-007263  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 on December 19, 2023, via teleconference. Petitioner appeared and represented herself. Lashona Callen, Assistance Payments Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA)?

### **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 recipient of MA coverage.
2. On July 28, 2023, Petitioner filed a Redetermination for MA (Exhibit A, p. 5).
3. On October 17, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was eligible for Plan First MA, a limited coverage category, effective November 1, 2023 ongoing (Exhibit A, p. 12).
4. On October 23, 2023, Petitioner requested a hearing regarding her MA eligibility (Exhibit A, p. 4).

## 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).

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS determined that Petitioner was eligible for Plan First MA, a limited MA coverage category. At the hearing, MDHHS testified that Petitioner was previously receiving Healthy Michigan Plan (HMP) MA, but the HMP MA was closed due to excess income.

MA includes several sub-programs or categories. BEM 105, p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

HMP MA provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (June 2020), p. 1. HMP is based on MAGI methodology. *Id.* To be eligible for HMP, an individual's income must be at or below 133% of the Federal Poverty Level (FPL). *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1. 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.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. MDHHS did not introduce a MA budget to show how it calculated Petitioner's income. At the hearing, MDHHS testified that it determined that Petitioner had a household size of one and received \$ [REDACTED] per month in earned income. Petitioner reported earning \$ [REDACTED] every two weeks (Exhibit A, p. 7).

An individual's group size for MAGI purposes requires consideration of the client's tax filing status or, if not a tax filer, the individual's household. 42 CFR 435.603(f)(1). If the individual is not claimed as a tax dependent and expects to file a tax return for the taxable year in which an eligibility determination is made, the household consists of the taxpayer and all persons the individual expects to claim as a tax dependent. 42 CFR 435.603(f)(1). Petitioner testified that she lived in her household with her adult son, who she did not claim as a tax dependent. Therefore, MDHHS properly determined that Petitioner had a group-size of one for MAGI-related purposes.

No evidence was presented that Petitioner was blind, disabled, over age 65, under age 19, pregnant, the parent of minor children, or a Medicare recipient. Thus, Petitioner was only potentially eligible to receive HMP MA or Plan First MA.

HMP income limits are based on 133% of the Federal Poverty Level (FPL).<sup>1</sup> RFT 246 (April 2014), p. 1. MDHHS also applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (April 2022), p. 5. Thus, HMP income limits are functionally 138% of FPL. The 5% disregard is the amount equal to 5% of the FPL, not a flat 5% disregard of income. BEM 500, p. 5; See *also*: Modified Adjusted Gross Income Related Eligibility Manual (May 2014), p. 15, *available at*: [https://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](https://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf).

Effective January 19, 2023, 100% of FPL was \$14,580.00 annually for a one-person household residing in the contiguous 48 states. For Petitioner to be eligible for HMP MA in 2023, her net income would have to be at or below \$20,120.40 per year or \$1,676.70 per month, which represents 138% of FPL. Persons with income less than 200% of FPL (applying the 5% disregard), which was \$29,160.00 annually or \$2,430.00 monthly in 2023, can qualify for Plan First MA.

Here, MDHHS failed to present a MA budget to show how it determined Petitioner's net income for MAGI-related MA, and there is a discrepancy between what Petitioner reported receiving and MDHHS' determination regarding her income. No evidence was

---

<sup>1</sup> Federal Poverty Level (FPL) refers to the Federal Poverty Guidelines published annually in the Federal Registrar. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

presented to show that MDHHS properly verified her income, in accordance with Department policy. See *generally* BAM 130 (October 2023), p. 1. Given the lack of evidence in the record it is not possible to determine whether MDHHS properly determined Petitioner's income for the purposes of MA.

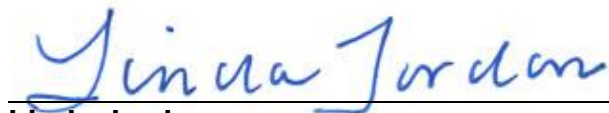
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA.

### **DECISION AND ORDER**

Accordingly, MDHHS's decision is **REVERSED**.

MDHHS 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 MA, effective November 1, 2023 ongoing;
2. Provide Petitioner the most beneficial coverage that she is eligible to receive, from November 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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**

Denise Key-McCoggle  
Wayne-Greydale-DHHS  
27260 Plymouth Rd  
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-  
Hearings@michigan.gov**

**Interested Parties**

M. Schaefer  
EQADHearings  
BSC4

**Via-First Class Mail :**

**Petitioner**

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