



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: January 26, 2024
MOAHR Docket No.: 23-007426
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 January 22, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Specialist. Also present was Bengali interpreter Rashed Iqbal.

ISSUE

Did the Department properly close Petitioner's and Petitioner's wife's Medical Assistance (MA) benefit cases?

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 and his wife were ongoing MA recipients under the Health Michigan Plan (HMP) MA program.
2. On September 5, 2023, Petitioner completed a redetermination related to his and his wife's MA benefit cases (Exhibit A, pp. 11-18).
3. Petitioner and his wife filed taxes and claimed one of their children as a dependent.
4. Petitioner and his wife had income from employment.

5. On October 4, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his and his wife's MA benefit cases were closing effective November 1, 2023, ongoing (Exhibit A, pp. 31-38).
6. On October 30, 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 and his wife were ongoing MA recipients under the full-coverage HMP MA program. In September 2023, Petitioner completed a redetermination related to his and his wife's MA benefit cases. The Department determined that Petitioner and his wife were not eligible for MA benefits.

The Department concluded that Petitioner and his wife were not eligible for HMP because their income exceeded the applicable income limit for their group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. 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 (July 2017), 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 was married, and he claimed one dependent. Therefore, for HMP purposes, Petitioner and his wife have a household size of three. BEM 211 (January 2016), pp. 1-2. 138% of the annual FPL in 2023 for a household with three member is \$34,307. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$2,859. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$34,307 annually or \$2,859 monthly. To determine financial eligibility under HMP, income must be calculated in

accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

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/>. 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.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented pay statements from Petitioner's income from employment (Exhibit A, pp. 19-26). Petitioner was paid on a biweekly basis and on August 8, 2023, he received gross income in the amount of \$[REDACTED] and on August 20, 2023, he received gross income in the amount of \$[REDACTED]. Petitioner did not have any pretax deductions. Therefore, Petitioner's countable income was \$[REDACTED]. Petitioner's wife was paid on a weekly basis. The Department testified that the Department used Petitioner's wife's self-reported income to determine household income. The Department stated that Petitioner's wife reported that she was paid on October 5, 2023, in the gross amount of \$[REDACTED]. At the hearing, Petitioner disputed that his wife was paid \$[REDACTED]. Petitioner stated that his wife was paid around \$[REDACTED] per week. However, with the request for hearing, Petitioner submitted pay statements showing his wife was paid on October 5, 2023, in the gross amount of \$[REDACTED], and on October 20, 2023, in the gross amount of \$[REDACTED]. Petitioner's wife did not have any pretax deductions. Petitioner's wife's averaged income multiplied by 4 weeks is \$[REDACTED]. Petitioner and Petitioner's wife's income well exceeds the income limit for their group size.

It should be noted that at the hearing, Petitioner argued that his wife's income has dramatically decreased. However, the Department used the correct income at the time the eligibility determination occurred.

As the caretakers of a minor child, Petitioner and his wife are potentially eligible for MA benefits under the Group 2-Caretaker/Relative (G2C) program. G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (October 2014), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal

to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

At the hearing, the Department testified that Petitioner's and Petitioner's wife's eligibility under the G2C program was not determined. The Department testified that a Verification Checklist (VCL) was sent to Petitioner on September 21, 2023, with a due date of October 2, 2023. The Department reported that it was seeking verification of Petitioner's wife's income, as well as the group's assets. The Department stated that Petitioner did not return the verifications. Petitioner argued that he returned the verifications.

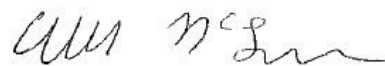
Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

It was unclear based on Petitioner's testimony as to what verifications were submitted to the Department and when they were submitted. Therefore, the Department acted in accordance with policy when it closed Petitioner's and Petitioner's wife's MA benefit cases.

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 closed Petitioner's and Petitioner's wife's MA benefit cases. Accordingly, the Department's decision is **AFFIRMED**.

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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
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Interested Parties
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Via-First Class Mail :

Petitioner
[REDACTED]
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