



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 11, 2024
MOAHR Docket No.: 23-007667
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 30, 2023, Petitioner, Sara [REDACTED] requested a hearing to dispute a Medical Assistance (MA) determination. As a result, a hearing was scheduled to be held on January 10, 2024, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner appeared with her mother, [REDACTED] Respondent, Department of Health and Human Services (Department), had Kelli Bailey, Eligibility Specialist, and Sara Stellema, Assistance Payments Supervisor, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 20-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's 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 receives MA through the Freedom to Work program.
2. In September 2023, Petitioner submitted a redetermination form to renew her eligibility for MA. Petitioner provided copies of paystubs with her form, and those paystubs showed that Petitioner received the following weekly gross wages from her employment:
 - a. \$ [REDACTED] paid September 1, 2023;

- b. \$ [REDACTED] paid September 8, 2023;
 - c. \$ [REDACTED] paid September 15, 2023; and
 - d. \$ [REDACTED] paid September 22, 2023.
3. The Department reviewed the information provided by Petitioner, and the Department determined that Petitioner was eligible for MA through the Freedom to Work program with a \$610.93 monthly premium.
 4. Prior to the redetermination, Petitioner's monthly premium was \$149.35.
 5. On September 28, 2023, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was eligible for MA through the Freedom to Work program with a \$610.93 monthly premium, effective November 1, 2023.
 6. Petitioner requested a hearing to dispute the Department's MA eligibility determination. Petitioner asserts that the Department should have considered her work-related expenses when the Department calculated her monthly premium.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner is disputing her monthly premium for MA through the Freedom to Work program. Once a client has been found eligible for MA through the Freedom to Work program, the client's monthly premium is based on Modified Adjusted Gross Income (MAGI). BEM 174 (January 1, 2020), p. 3. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. Based on the evidence presented, Petitioner received gross wages of [REDACTED] weekly, so

Petitioner's annual income is [REDACTED] and Petitioner's monthly income is [REDACTED]. This is Petitioner's MAGI.

Petitioner asserted that the Department should have considered her work-related expenses when the Department determined her income. Income deductions are only considered to determine whether a client is eligible for MA coverage through the Freedom to Work program. BEM 174 at p. 3. Those deductions are found in BEM 541, and they include allowable work expenses such as transportation. BEM 541 (January 1, 2023), p. 4. However, the allowable work expenses and other deductions found in BEM 541 are not used when determining a client's monthly premium for MA through the Freedom to Work program. Eligibility for MA coverage through the Freedom to Work Program is based on an income calculation set forth in policy that allows the deductions in BEM 541, but the monthly premium for an eligible client is based exclusively on MAGI. The Department properly determined that it could not consider Petitioner's work-related expenses when it determined Petitioner's monthly premium because the monthly premium is based exclusively on MAGI.

The monthly premium for MA through the Freedom to Work program is 100% of the average Freedom to Work participant cost for a client with an annual MAGI over \$75,000. BEM 174 at p. 3. Petitioner has an annual MAGI over \$75,000, so Petitioner is required to pay a monthly premium for MA through the Freedom to Work program that is 100% of the average Freedom to Work participant cost.

Petitioner asserted that she disagreed with the policy that set the monthly premium because it was based on a maximum annual income of \$75,000 that has not increased with the increased cost of living. I do not have the authority to change the Department's policy.

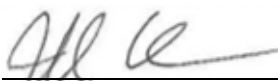
There was no evidence presented to establish that Petitioner's monthly premium should have been less than the \$610.93 premium calculated by the Department. Therefore, I must find that the Department properly determined Petitioner's monthly premium.

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 act in accordance with its policies and the applicable law when it determined Petitioner's Medical Assistance eligibility.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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
Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507
MDHHS-Kent-Hearings@michigan.gov

Interested Parties
BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]