



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: February 5, 2024
MOAHR Docket No.: 23-007987
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 January 29, 2024, via teleconference. Petitioner appeared and represented herself. Dania Ajami, Lead 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 Healthy Michigan Plan (HMP) MA.
2. On September 1, 2023, Petitioner submitted a renewal for MA (Exhibit A, p. 6).
3. On September 8, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for Plan First MA, a limited coverage category, effective October 1, 2023 ongoing (Exhibit A, p. 17). MDHHS determined that Petitioner had a household of one for the purposes of MA and that her total annual income was \$ [REDACTED] (Exhibit A, p. 18).

4. On November 7, 2023, Petitioner submitted a Request for Hearing to dispute the determination regarding her MA coverage (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.*

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. 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.

Here, MDHHS testified that it determined that Petitioner had a household of one for the purposes of MA because her son was an adult and Petitioner did not claim him as a dependent. 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). Although Petitioner's son was living in the household, Petitioner did not dispute that he was an adult and that she did not claim him as a dependent on her taxes. Therefore, MDHHS properly determined that Petitioner had a group-size of one for the purposes of MAGI-related MA.

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt 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.¹ 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, and can take into account any reasonably predictable increase or decrease in income.²

MDHHS did not introduce a MA budget to show how it calculated Petitioner's income. MDHHS testified that it determined that Petitioner's earned income was \$██████████ per month based on the paystubs that she submitted. Petitioner submitted paystubs from her earnings at Help at Home Michigan LLC (Employer), from August 18, 2023 to October 20, 2023 (Exhibit A, pp. 11-16). The paystubs show that she was paid weekly and that the gross pay varied from \$██████████ per month to \$██████████ (Exhibit A, p. pp. 11-16). Petitioner asserted that her hours varied based on the need and that MDHHS overestimated her pay.

¹ See Healthcare.gov, Count Income & Household Size, available at <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (last accessed December 7, 2023).

² Michigan Medicaid State Plan, December 18, 2017 Submission, available at <https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf> (last accessed December 7, 2023).

MDHHS testified that Petitioner's income was based on weekly paystubs received from Employer for the month of August 2023. Although not all the August paystubs were not introduced at the hearing, MDHHS testified that it averaged four paystubs from August in which Petitioner earned \$ [REDACTED] and \$ [REDACTED], and then multiplied that amount by 4.3 to equal \$ [REDACTED]. The sum of the paychecks equals \$ [REDACTED]. That amount divided by four equals \$ [REDACTED] and \$ [REDACTED] multiplied by 4.3 equals \$ [REDACTED] (dropping the cents).

MDHHS determined that Petitioner was over the income-limit for HMP on September 8, 2023, based on her August paystubs, as described above. HMP income limits are based on 133% of the Federal Poverty Level (FPL).³ 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.

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.

According to the MA state plan, MDHHS elected to base HMP MA eligibility on current monthly income and family size and can take into account any reasonably predictable changes in income (i.e. seasonal worker). Additionally, a beneficiary who experiences a change in income can report it to MDHHS at any time to have the change taken into account. MDHHS attempts to verify the change electronically, or if it cannot do so, it should request verification from the client.

In this case, it is unclear why MDHHS multiplied Petitioner's averaged August income by 4.3. This multiplier is used to standardize and prospect future income for benefit programs other than MAGI-related MA. See BEM 505 (October 2022), p. 1 (For FIP, SDA, RAP, CDC, and FAP, MDHHS bases financial eligibility on actual income and prospected income). Additionally, Petitioner reported changes in income when she submitted additional paystubs for September and October. It is unclear whether MDHHS properly considered these paystubs as reported changes.

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

³ 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>.

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' 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 October 1, 2023 ongoing, using actual income and requesting additional information from Petitioner, as necessary;
2. Provide Petitioner with the most beneficial MA coverage she is eligible to receive, from October 1, 2023 ongoing; and
3. Notify Petitioner of its decision(s) 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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties

M. Schaefer
EQADHearings
BSC4

Via-First Class Mail :

Petitioner

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