



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]
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[REDACTED] MI [REDACTED]

Date Mailed: February 6, 2024
MOAHR Docket No.: 23-008186
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 31, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Raven Douthard.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA) Program benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.

4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner has been an ongoing MA recipient under the Group 2-Aged, Blind, Disabled (G2S) category and completed the redetermination process.
7. On October 11, 2023, the Department received verification of Petitioner's assets in her bank account showing a low balance of [REDACTED] for her checking account and a low balance of [REDACTED] for her savings account.
8. Petitioner receives [REDACTED] per month in Social Security Administration (SSA) benefits.
9. A Health Care Coverage Determination Notice (HCCDN) was issued to Petitioner which was not provided as an exhibit for the hearing notified Petitioner that she was ineligible for Group 2-Aged, Blind, Disabled (G2S) because her assets exceeded the asset limit for the program.
10. On November 15, 2023, the Department received Petitioner's request for hearing disputing the Department's determination that she was ineligible MA benefits.
11. Subsequently, on November 20, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that effective July 1, 2023, ongoing, she was eligible for Plan First (PF) MA benefits.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

CONCLUSIONS OF LAW

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

MA Coverage

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was eligible for MA coverage under the PF program. Petitioner disputes this coverage.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

In this case, Petitioner disputes the Department's decision with respect to her MA eligibility. Asset eligibility is required for all SSI-related MA categories including G2S. BEM 400 (July 2023), p. 6. Modified Adjusted Gross Income (MAGI) MA categories do not have an asset test including PF. *Id.* Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7. For all other SSI-related MA categories, including G2S and excluding QDWI, the asset limit was \$2,000.00 for a group size of one effective July 1, 2023. *Id.* Funds cannot be considered as both income and as asset in the same month. BEM 500 (April 2022), p. 7. The Department is not required to verify assets when countable assets exceed the applicable asset limit based on a person's own statement of value. BEM 400, p. 61.

In this case, Petitioner provided a bank statement to the Department which showed she had a combined value of assets in her checking and savings account of [REDACTED]. Neither account shows any deposits for the month; therefore, all funds are considered assets and not income for the verified month. Because Petitioner's verified assets exceed the asset limits for G2S, the Department properly determined that she was ineligible for G2S.

Because Petitioner was no longer eligible for G2S, the Department determined that Petitioner was eligible for PF, a limited coverage MA program which provides coverage for family planning services. Petitioner is eligible for Medicare and had excess asset for SSI-related MA categories. She is not under age 19, not the parent or caretaker of a minor child, nor pregnant or recently pregnant. Therefore, Petitioner was potentially eligible for MA coverage only under PF.

In this case, MDHHS concluded that Petitioner was eligible for PF due to having assets exceeding the asset limit for SSI-related MA categories. PF-MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage (not emergency services only (ESO)) residing in Michigan whose fiscal group's net income does not exceed 195% of the federal poverty level (FPL) and meets the other eligibility criteria. BEM 124 (July 2023), p. 1. There are no age or gender restrictions to PF-MA eligibility. BEM 124, p. 1.

Like HMP, determination of an individual's PF-MA eligibility requires consideration of the fiscal group's size and income. BEM 124, pp. 1-2. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Petitioner has a group size of one as there was no evidence that she is married and has dependents. BEM 211, pp. 1-2. 195% of the annual FPL in 2023 (the most current applicable FPL) for a household with one member is \$28,431.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$28,431 or \$2,369.25 per month.

To determine financial eligibility under PF, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine 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 11. See <https://www.healthcare.gov/glossary/adjusted-gross-income-agi>. 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/>. MDHHS considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State

Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

Petitioner had verified income of [REDACTED] per month. No evidence was presented of any deductions for health coverage, childcare, or retirement savings. Because Petitioner's income falls below the income limit threshold for PF, she is eligible for MA under the PF category.

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 MA benefits under the G2S and MSP categories and provided MA under the PF category.

DECISION AND ORDER

Accordingly, MDHHS's MA decision is **AFFIRMED**.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-18-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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