



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: February 6, 2024  
MOAHR Docket No.: 23-008223  
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 31, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Angel Johnson, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit 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 was an ongoing MA recipient under the Transitional MA program.
2. On October 2, 2023, Petitioner completed a redetermination related to her MA benefit case (Exhibit A, pp. 8-10).
3. Petitioner's household consisted of herself and her minor child.
4. Petitioner had income from employment.

5. On November 1, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits under the limited coverage Plan First MA program effective December 1, 2023, ongoing (Exhibit A, pp. 14-17).
6. On November 16, 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 was an ongoing MA recipient under the full coverage Transitional MA program. Individuals may only receive Transitional MA for one year. BEM 111 (April 2018). In October 2023, Petitioner completed a redetermination related to her MA benefit case. The Department determined that Petitioner was only eligible for MA benefits under the limited coverage Plan First program.

The Department concluded that Petitioner was not eligible for the full coverage HMP program because her income exceeded the applicable income limit for his 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 filed taxes and claimed her child as a

dependent. Therefore, Petitioner has a group size of two. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2023 for a household with two members is \$27,214. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$2,268. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$27,214 annually or \$2,268 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](https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf)

The Department testified that Petitioner reported that she was employed and received \$█████ on a biweekly basis. At the hearing, Petitioner testified that she was on medical leave from August 21, 2023, through December 28, 2023. Petitioner reported that she utilized her sick leave until it was exhausted. Petitioner stated that September 2023 was the last month in which she received her full paycheck. Petitioner testified that her income slowly decreased until December 5, 2023, when she received a \$█████ paycheck. Petitioner stated that she did not have income after December 5, 2023, until she returned to work in January 2024. Petitioner reported that when she returned to work in January 2024, she began receiving \$█████ on a biweekly basis.

As stated above, the State of Michigan has elected to use current income at the time of eligibility determination. When Petitioner's eligibility was determined, she was still receiving \$█████ on a biweekly basis. Therefore, the Department properly considered Petitioner's gross income. However, Petitioner reported that she has pretax deductions, including retirement savings. It is unclear from the evidence provided whether Petitioner's MAGI income with the pretax deductions is below the income limit for her

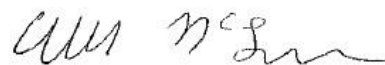
group size. The Department failed to seek verification of Petitioner's income by requesting a pay statement from Petitioner showing her MAGI-based income with the pretax deductions. Therefore, the Department did not act in accordance with policy when it calculated Petitioner's MAGI-based income. Thus, the Department failed to establish that it acted in accordance with policy when it determined that Petitioner was not eligible for MA benefits under the HMP program. As it follows, the Department failed to establish that it properly determined Petitioner's MA eligibility.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility. Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT 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 MA eligibility as of December 1, 2023, ongoing;
2. If Petitioner is eligible for MA benefits, provide coverage for which she is entitled; and
3. Notify Petitioner of its decision in writing.



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**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.

