



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: February 12, 2024
MOAHR Docket No.: 23-008848
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 8, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator. Salwa (ID No. 9696) served as Arabic interpreter.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) 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. On or around [REDACTED] 2023, Petitioner submitted an application for MA benefits for himself and his wife, [REDACTED] who, at the time, was pregnant with one child. (Exhibit A, pp. 7-12)
2. Petitioner began employment with [REDACTED] on August 2, 2023, and received his first paycheck on August 11, 2023. (Exhibit A, pp. 15-18)
3. On or around September 22, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, advising him that for the period of July 1, 2023, ongoing, he was eligible for limited MA coverage under the Plan First (PF-MA).

4. The Department asserted that Petitioner was ineligible for MA coverage under the Healthy Michigan Plan (HMP) due to excess income.
5. The Department's determination of MA eligibility for Petitioner's wife was not clearly established or explained during the hearing.
6. On or around [REDACTED] 2023, Petitioner's son was born.
7. On or around November 29, 2023, Petitioner submitted a change report informing the Department that his son was born and requesting MA benefits on behalf of the child. As of the hearing date, the Department conceded that MA eligibility for Petitioner's son had not been determined and the Department failed to process the reported change.
8. On or around November 29, 2023, Petitioner requested a hearing disputing the Department's actions with respect to MA benefits for himself and his household members.

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.

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 (July 2021), 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 disputed the Department's processing of his [REDACTED] 2023, MA application, as well as the Department's MA eligibility determination for himself, his wife, and his newborn son. MA eligibility for each individual will be addressed separately below.

MA for Petitioner's wife

At the hearing, the Department representative testified that although on or around September 5, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective July 1, 2023, his wife was approved for Emergency Services Only (ESO) MA based on her status as a legal permanent resident in the United States for less than five years, Petitioner's wife was actually approved for full coverage MA under a program for pregnant women. The Department did not present any Health Care Coverage Determination Notice for review detailing the MA approval information for Petitioner's wife. It was unclear whether Petitioner's wife was approved for MA under the Pregnant Women (PW) category covered under BEM 125 or the Maternity Outpatient Medical Services (MOMS) category covered under BEM 657 and applicable to those eligible for ESO MA, as the eligibility summary provided to the undersigned after the hearing did not clearly identify the approved program or the months of approval. (Exhibit B). Although Petitioner's wife is potentially eligible for MOMS coverage, the Department representative testified that this program is processed by a different office within the Department and could not provide the undersigned with any explanation. Petitioner asserted that his wife had active MA coverage for only certain months and still has outstanding medical bills. Based on the evidence presented at the hearing, the Department failed to establish that it properly processed MA eligibility for Petitioner's wife from the application date, ongoing.

MA for Petitioner

Because Petitioner was not age 65 or older, blind, or disabled, under age 19, the parent or caretaker of a minor child, or pregnant or recently pregnant, the Department testified that Petitioner was potentially eligible for MA coverage under HMP. HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

The Department representative testified that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his group size. The Department representative testified that it applied an income limit for a household size of two, which as discussed below, is incorrect.

An individual is eligible for HMP if the household's MAGI-income does not exceed 133% of the FPL applicable to the individual's group size. An individual's group size for MAGI

purposes requires consideration of the client's tax filing status and dependents. In this case, Petitioner testified that at the time of the application, his tax filing group included himself and his wife, who was pregnant. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). In the case of determining the family size of a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. 42 CFR 435.603(b). In the case of determining the family size of other individuals who have a pregnant woman in their household, the pregnant woman is counted, at State option, as either 1 or 2 person(s) or as herself plus the number of children she is expected to deliver. 42 CFR 435.603(b). In determining family size for the eligibility determination of the other individuals in a household that includes a pregnant woman, the State of Michigan has elected to include the pregnant woman as herself, plus the number of children she is expected to deliver. See: https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf.

Additionally, BEM 211 (July 2019), at pp. 1-9 provides that the Department is to count a pregnant woman as at least two members. Therefore, for HMP purposes, Petitioner has a household size of three. 133% of the annual FPL in 2023 for a household with three members is \$33,063.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$33,063.80, and thus, his monthly income cannot exceed \$2,755.32, as he was considered a new applicant of MA benefits. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5.

To determine financial eligibility under HMP, 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 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of new applicants for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. 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.

In this case, although the Department representative testified that Petitioner's monthly income from employment was [REDACTED] the Department was unable to explain how this figure was calculated. The Department presented paystubs from Petitioner's employment with [REDACTED] which show that he was paid [REDACTED] on August 11, 2023, [REDACTED] on August 18, 2023, and [REDACTED] on August 25, 2023 which included overtime pay. Although the Department testified that it relied on these pay stubs to calculate Petitioner's monthly income, the total of the paystubs does not equal \$ [REDACTED] as the Department determined. Additionally, Petitioner's employment with [REDACTED] began on August 2, 2023, and his first paycheck was received on August 11, 2023. Petitioner testified that at the time of his application, he was not employed. There was no evidence that the Department relied upon any other earnings besides those which began on August 11, 2023, and there was no evidence presented by the Department that Petitioner had income at the time of his application that required consideration. As referenced above, Petitioner was a new applicant for MA, and thus, the Department should have relied on Petitioner's current monthly income as of the application date to determine if he was income eligible for HMP MA benefits. Therefore, because the Department was supposed to consider current income received in the application month, the Department improperly relied on paystubs received in August 2023 in processing Petitioner's MA eligibility for July 2023. As a result, the Department failed to establish that Petitioner's income exceeded the limit for HMP benefits.

Although the Department determined that Petitioner was eligible for limited coverage Plan First MA, because the HMP is a more beneficial MA program, the Department shall redetermine Petitioner's eligibility under the HMP in accordance with the above referenced policies.

MA for Petitioner's son

Petitioner testified that his son was born on [REDACTED] 2023, and that he submitted a change report to the Department requesting MA coverage for the child. At the hearing, the Department conceded that although the change report was received on November 29, 2023, it had not been acted upon yet, and no eligibility determination has been made for the child. The Department provided no valid explanation as to why MA eligibility for Petitioner's child had not yet been determined.

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 not act in accordance with Department policy when it processed Petitioner's MA benefits.


DECISION AND ORDER

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 and his wife's MA eligibility under the most beneficial category for July 1, 2023, ongoing;
2. If eligible, provide MA coverage to Petitioner and his wife, under the most beneficial category, that they were entitled to receive but did not from July 1, 2023, ongoing,
3. Process the November 29, 2023, change report and determine MA eligibility for Petitioner's son under the most beneficial category for November 1, 2023, ongoing;
4. If eligible, provide MA coverage to Petitioner's son under the most beneficial category, that he was entitled to receive but did not from November 1, 2023, ongoing; and
5. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties
BSC4
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Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]