



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  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: February 29, 2024  
MOAHR Docket No.: 23-008878  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 13, 2024. The Petitioner appeared for the hearing. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that Petitioner and his spouse were eligible for Medicaid coverage under Plan First Family Planning (PFFP)?

### **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 June 26, 2023, the Department received Petitioner's completed Redetermination on which he listed his birth date indicating an age of [REDACTED] years old, employment income for his wife, a household size of two, and that he plans to file taxes with his wife, [REDACTED] and no claimed dependents. (Exhibit A, pp. 7-13).

2. Petitioner's submitted Redetermination also included weekly paystubs for Petitioner's wife, showing her wages as follows:

July 21, 2023  
July 28, 2023  
August 4, 2023  
August 11, 2023



3. On September 30, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising him that effective November 1, 2023, ongoing, he was eligible for limited MA coverage under PFFP.
4. The Department asserted that Petitioner was ineligible for MA coverage under the Healthy Michigan Plan (HMP) due to excess income.
5. On December 1, 2023, Petitioner requested a hearing disputing the Department's action with respect to MA benefits for himself and his wife.

### **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 Coverage**

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was eligible for MA coverage under the PFFP 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 1, 2023), p. 1; BEM 137 (June 1, 2020), p. 1; BEM 124 (July 1, 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.

**Modified Adjusted Gross Income (MAGI)-RELATED PROGRAMS: Healthy Michigan Plan (HMP)**

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, Petitioner was potentially eligible for MA coverage only under HMP or PFFP. 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.

In this case, MDHHS concluded that Petitioner was not eligible for HMP due to having income that exceeded the applicable income limit for Petitioner's group size. The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* at 1-2. Here, Petitioner has a household size of two because Petitioner is married and there were no dependents claimed in the household.

The FPL for a household size of two in 2023 was \$19,720.00. 88 FR 3424 (January 19, 2023). 133% of the FPL, the HMP income limit, is \$26,227.60. A 5% disregard that increases the income limit by an amount equal to 5% of the FPL for the group size is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (April 1, 2022), p. 5. The 5% disregard would increase the HMP income limit for Petitioner to \$27,213.60. Thus, the maximum applicable income limit with the 5% disregard was \$27,213.60, or \$2,267.80 monthly.

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/> 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 is available at [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

Petitioner submitted four paystubs showing that his wife is paid on a weekly basis and that at that time her wages were relatively stable. Using the most recent 30-day period prior to the filing of Petitioner's Redetermination, Petitioner's wife had a gross income of [REDACTED]. Reviewing Petitioner's wife's paystubs revealed no deductions for childcare or retirement savings; however, there was a weekly deduction taken for dental insurance for \$5.48. Therefore, Petitioner's wife's gross income is included in the household MAGI income at an amount of [REDACTED]. Petitioner also works and is paid on a weekly basis. The Department representative testified that the income purported to Petitioner was based on previously submitted verifications. The following paystub information was provided by testimony from the Department regarding Petitioner's weekly wages:

June 2, 2023  
June 9, 2023  
June 16, 2023  
June 23, 2023



Based on this testimony, the Petitioner's gross income for MAGI purposes was [REDACTED] per month. With a household size of two and a household income of [REDACTED] Petitioner's income exceeds the HMP income limit of \$2,185.33 per month and Petitioner is not eligible for HMP.

**MAGI-RELATED PROGRAMS: PLAN FIRST**

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. PFFP provides MA coverage for family planning services. See <https://www.michigan.gov/mdhhs/assistance-programs/healthcare/adults/planfirst>.

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. In this case, Petitioner filed taxes and claimed no dependents and had two household members. Therefore, for PF-MA purposes, Petitioner has a household size of two. BEM 211 (October 1, 2023), pp. 1-2. 195% of the annual FPL in 2023 (the most current applicable FPL) for a household with two members is \$38,454. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$38,454 annually or \$3,204.50 per month.

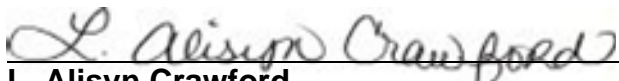
As seen above, Petitioner's MAGI income is well below the PF income limit. If Petitioner desires coverage under PFFP for family planning services, he is eligible.

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 determined Petitioner and his spouse were income-eligible for Medicaid coverage under Plan First Family Planning (PFFP).

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

LC/ml

  
**L. Alisyn Crawford**  
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**  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]