



GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

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Date Mailed: February 22, 2024
MOAHR Docket No.: 23-009200
Agency No.: ██████████
Petitioner: ██████████

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 February 20, 2024. The Petitioner was represented by her husband ██████████. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program coverage?

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 November 28, 2023, the Department received Petitioner's application and retro-active application for MA benefits.
2. On October 6, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to ██████████ advising him that Petitioner was eligible for MA Healthy Michigan Plan (HMP) benefits effective October 1, 2023 but was not eligible for Medicare Savings Program (MSP) benefits effective October 1, 2023 because she did "not meet basic criteria" for the program.
3. On December 4, 2023, the Department issued a second HCCDN, this time to Petitioner, advising her that she was eligible for MA HMP benefits effective

December 1, 2023, ongoing, but that she was not eligible for MSP benefits effective November 1, 2023 because she did “not meet basic criteria.”

4. Neither HCCDN identified the specific criteria that Petitioner failed to meet for eligibility for MSP.
5. On December 11, 2023, the Department received a request for hearing from Petitioner disputing the Department’s determination of MA eligibility based on income and household composition.
6. At the hearing, the parties disputed the beginning date of Petitioner’s Social Security Administration (SSA) benefit, eligibility for Medicare, income amount, assets, and whether Petitioner had any MA coverage. Petitioner indicated that contrary to the Department’s assertions that MA was active, Petitioner has attempted to use the MA coverage and has been told repeatedly that coverage is not active.
7. Petitioner is legally married.

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 disputes the Department’s determination of MA coverage. Medicaid (also known as MA) is available (i) under Supplemental Security Income (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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (October 2023), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (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 (June 2020), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Asset eligibility is required for all SSI-related MA categories including G2S and all MSP categories. BEM 400 (July 2023), p. 6. Modified Adjusted Gross Income (MAGI) MA (HMP) categories do not have an asset test. *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 MSP with a group size of two (because Petitioner is legally married), the asset limit effective January 1, 2023 was \$13,630.00. BEM 400, p. 8; BEM 211 (October 2023), p. 8. For all other, SSI-related MA categories, including AD-Care and G2S and excluding QDWI, the asset limit was \$3,000.00 for a group size of two. *Id.*

Although the Department provided documentation that Petitioner is eligible for MA benefits under the HMP category, ██████ credibly testified that when Petitioner attempted to use the coverage, coverage was not provided. Furthermore, the Department also testified that Petitioner was not eligible for an SSI-related MA category because she had excess assets and was not a Medicare recipient. Neither party provided any information regarding Petitioner's age, but the parties disputed the beginning date of Petitioner's SSA benefit and income.

The Department has failed to show that it acted in accordance with Department policy. Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (March 2021), pp. 1, 5. When a hearing request is filed, the matter is transferred to MOAHR for a hearing before an Administrative Law Judge. BAM 600, p. 2. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, pp. 9-10. Additionally, a hearing packet must be prepared to send with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant notice of case action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action and provide documentary evidence of the action taken. The Department failed to do either. It did not provide Petitioner's application, income or asset verifications, budgets related to Petitioner's MA eligibility, or decision notices listing a reason for why

Petitioner's coverage was denied. Thus, the Department failed to meet its burden of proof and must be reversed as it relates to Petitioner's MA coverage effective October 1, 2023.

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 effective October 1, 2023.

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. Reprocess Petitioner's application and retroactive-MA application from November 2023;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

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-19-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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