



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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DIRECTOR

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ROYAL OAK, MI 48073

Date Mailed: March 12, 2024
MOAHR Docket No.: 23-009342
Agency No.: 125065903
Petitioner: ██████████

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 21, 2024, via telephone conference call. Petitioner did not appear at the hearing. Petitioner's wife, ██████████ (Wife) appeared at the hearing. The Department of Health and Human Services (Department) was represented by Robin White, Eligibility Specialist.

ISSUE

Did the Department properly close Wife's Medicaid (MA) case?

FINDINGS OF FACT

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

1. As of September 2023, Wife was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) in a group including her husband (Petitioner) and two children, ages 2 and 4.
2. In connection with assessing Wife's ongoing MA eligibility, the Department sent a redetermination for the household to complete.
3. Petitioner is employed with two employers, ██████████ (GP) and ██████████ (ABC), where he is paid weekly and biweekly, respectively. (Exhibit A, pp. 28-30.)

4. From September 7, 2023 through October 13, 2023, Petitioner's income included:

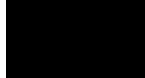
From GP:

9/8/2023
9/15/2023
9/22/2023
9/29/2023



From ABC:

9/29/2023
10/13/2023



(Exhibit A, pp. 28-30.)

5. Wife files taxes jointly with her spouse and claims two minor children as dependents. (Exhibit A, p. 24)
6. On September 30, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) notifying Wife that she was no longer eligible for MA benefits effective November 1, 2023 because she was not under 21, not pregnant, not disabled, not over age 65, not blind, not in foster care at 18, not the caregiver of someone under 19, and had income greater than the income limit for the group size. (Exhibit A, pp. 6-10.)
7. On December 15, 2023, the Department received Wife's request for hearing disputing the Department's closure of MA benefits. In her request, Wife asserted that she is the primary caretaker of her children, ages 2 and 4. (Exhibit A, pp. 4-5.)

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.

Wife was receiving MA under HMP prior to November 1, 2023. The Department explained at the hearing that, in assessing her ongoing MA eligibility during the redetermination, it concluded that Wife was no longer income eligible for MA. Wife disputed the Department's determination.

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 (January 1, 2021), 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.

According to the September 30, 2023 HCCDN, Wife 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. Under those circumstances, Wife was potentially eligible for MA coverage only 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.

In this case, MDHHS concluded that Wife was not eligible for HMP due to having income that exceeded the applicable income limit for her group size. 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. Here, Wife filed taxes jointly with her spouse and claimed two dependents. Therefore, for HMP purposes, Wife has a household size of four. BEM 211 (October 1, 2023), pp. 1-2. The annual FPL for a household size of four in 2023 was \$30,000. 88 FR 3424 (January 19, 2023). 133% of the FPL, the HMP income limit, is \$39,900, or \$3,325 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, 1040-SR or 1040-NR at line 11. 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 *currently* 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.

With the redetermination submission, the Department was provided two paystubs from ABC showing biweekly pay and a paycheck log for the year of 2023 from GP showing weekly pay and testified that it considered Petitioner's income from both employers in determining Wife's HMP eligibility. The Department testified that in determining the household's gross monthly income it considered Petitioner's submitted paystubs from ABC and the September 2023 payments to Petitioner from the GP paycheck log. A review of these payment shows monthly income of [REDACTED] for ABC (the sum of the gross payments for paychecks dated September 29, 2023 for [REDACTED] and October 13, 2023 for [REDACTED] and monthly income of [REDACTED] from GP (the sum of the paychecks for September 8, 2023 for [REDACTED] September 15, 2023 for [REDACTED] September 22, 2023 for [REDACTED] and September 29, 2023 for [REDACTED] Based on the submitted verifications, Petitioner had total monthly income of [REDACTED] Exhibit A, pp. 28-30.

A review of Petitioner's submitted paystubs revealed no deductions for childcare, medical insurance, or retirement savings. Thus, Petitioner's income for MAGI purposes was [REDACTED] per month. Although Wife testified that Petitioner's income fluctuated, the Department considers current monthly income in assessing ongoing HMP eligibility. With a group size of four, Petitioner's countable income exceeds the HMP income limit of \$3,325 per month. Therefore, the Department properly concluded that Wife was not eligible for HMP.

Even though Wife's household is not eligible for HMP due to excess income, because Wife has two minor children in the household, Wife is potentially eligible for MA under the Group 2 Caretaker Relative (G2C) program, which provides for MA coverage subject to a monthly deductible. Although the HCCDN indicated that Wife was not the caretaker of a minor child, at the hearing, the Department acknowledged that Wife had two minor children. The Department did not present any evidence that it had assessed Wife's eligibility under G2C. Under BEM 105 (January 1, 2021), p. 2, individuals are entitled to the most beneficial MA coverage that they are eligible for. Most beneficial is defined as the most beneficial category that results in eligibility, the least amount of excess income, or the lowest cost share. *Id.*

While the Department properly determined that Wife was not eligible for full coverage MA through HMP, the Department did not assess Wife's eligibility for MA coverage

under G2C, and thus, it failed to establish that it complied with Department policy. Although Wife also expressed concerns at the hearing about Petitioner's MA coverage, a review of the hearing request shows that Wife only requested a hearing concerning her coverage.

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 did not assess Wife's eligibility for programs other than HMP.

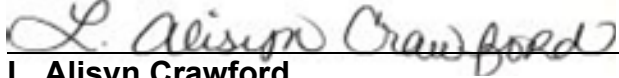
DECISION AND ORDER

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. The Department shall redetermine Wife's eligibility for MA under G2C for November 2023 ongoing;
2. If Wife is eligible for coverage under the G2C MA program, provide her with such coverage for November 2023 ongoing; and
3. Notify Wife of its decision in writing.

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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Madison Heights, MI 48071
**MDHHS-Oakland-DistrictII-
Hearings@michigan.gov**

Interested Parties
BSC4
M Schaefer
EQAD

Via First Class Mail:

Authorized Hearing Rep.

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Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]