



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

██████████  
██████████████████  
██████████████████████████████

Date Mailed: March 21, 2024  
MOAHR Docket No.: 23-009850  
Agency No.: ██████████  
Petitioner: █████ █████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 22, 2024, from Lansing, Michigan. █████ █████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-34.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

**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 receiving MA benefits under the Freedom to Work (MA FTW) category.
2. On October █████ 2023, Petitioner submitted a Redetermination. (Exhibit A, pp. 6-12)
3. On November █████ 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating MA FTW was denied effective January 1, 2024, based on a failure to return verification of income. (Exhibit A, pp. 13-17)

4. The November ■ 2023 determination was in error and Petitioner's MA Redetermination was reprocessed. (Exhibit A, p. 1)
5. On December ■ 2023, a written statement was submitted from Petitioner's employer stating Petitioner went out on a leave of absence November 9<sup>th</sup> for a needed surgery and she would return when okayed by her physician. A paystub from the November 17, 2023 check was included. (Exhibit A, pp. 20-21)
6. On December ■ 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner would have a monthly deductible for her MA coverage in the amount of \$■ effective January 1, 2024. Petitioner was also approved for limited coverage Plan First MA as well as the Medicare Savings Program (MSP). (Exhibit A, pp. 25-30)
7. On December 28, 2023, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 3)

### **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.

Plan First 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 residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, October 1, 2023, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when

determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, October 1, 2023, p. 1.

The Department counts the gross benefit amount of Social Security Administration (SSA) issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29.

The Department utilizes a Protected Income Level (PIL) in determining MA eligibility. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, January 1, 2020, p. 1. Saginaw County is part of Shelter Area V, which has a PIL of \$391.00 for a group size of one. RFT 200, April 1, 2017, p. 3 and RFT 240, December 1, 2013, p. 1.

For SSI related adults, the only deductions allowed to countable income are for court-ordered child support, blind/impairment related work expenses, allocation to non-SSI related children, a \$20.00 disregard, an earned income disregard of \$65.00 plus  $\frac{1}{2}$  of the remaining earnings, and Guardianship/Conservator expenses. BEM 541, January 1, 2023, pp. 1-7.

Income eligibility exists for all or part of the month tested when there is no excess income or the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, July 1, 2022, p. 1-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12.

RFT 242 addresses the income limit for aged or disabled MA (MA-AD). Effective April 1, 2023, for a group size of one the income limit for MA-AD is \$1,235.00. RFT 242, April 1, 2023, p. 1.

MA FTW is an SSI-related Group 1 MA category. FTW is available to a client with disabilities age 16 through 64 who has earned income. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested. BEM 174, January 1, 2020, p. 1.

The non-financial eligibility factors include employment:

2. The client must be employed. FTW coverage is retained when a participant is relocated due to employment.

**Note:** A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility. Use client statements to verify.

BEM 174, January 1, 2020, p. 1.  
(Underline added by ALJ)

In this case, it appears that the Department considered the statement from Petitioner's employer and paycheck stub as verification of Petitioner's employment ending. (Exhibit A, p. 1 and 20-21). However, Petitioner's employer stated Petitioner went out on a leave of absence November 9<sup>th</sup> for a needed surgery and that she would return when okayed by her physician. (Exhibit A, p. 20). Pursuant to the note in the above cited BEM 174 policy, eligibility for MA FTW can be retained when there is a temporary break in employment up to 24 months if the break is determined to be medically necessary. The Department could have requested a statement from Petitioner to verify this according to the BEM 174 policy. Therefore, the December 21, 2023 MA eligibility determination indicating Petitioner's MA would change from MA FTW to having a monthly deductible cannot be upheld.

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 determined Petitioner's eligibility for MA.

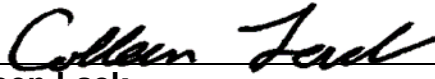
### **DECISION AND ORDER**

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. Re-determine Petitioner's eligibility for MA retroactive to the January 1, 2024 effective date in accordance with policy.

CL/dm

  
\_\_\_\_\_  
**Colleen Lack**  
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**  
Elisa Daly  
Saginaw County DHHS  
**MDHHS-Saginaw-  
Hearings@michigan.gov**

**SchaferM**

**EQADHearings**

**BSC2HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

██████████  
██████████  
██████████  
██████████