



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 24-000066
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 21, 2024, via a telephone conference. Petitioner was present at the hearing. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (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. Petitioner was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
2. Petitioner lives with his son (Son), age [REDACTED]
3. Petitioner is self-employed as a cleaner at a salon, files taxes using a 1099, and claims Son as a tax dependent.
4. Petitioner testified that Son is a full-time student in college and has not been employed since 2021.
5. On September 25, 2023, the Department sent Petitioner a Verification Checklist (VCL), requesting the last four paystubs from every adult in the home. The verification proofs were due back to the Department on October 5, 2023.

6. On October 6, 2023, the Department received documentation from Petitioner regarding his self-employment.
7. On October 7, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was no longer eligible for MA beginning November 1, 2023, due to his income. The HCCDN reflected a household total countable annual income amount of [REDACTED] and a health care household size of one for Petitioner.
8. On January 4, 2024, the Department received Petitioner's request for hearing disputing the Department's actions.

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.

Petitioner disputes the Department's finding that he was no longer eligible for MA. Although the October 7, 2024 HCCDN indicates that coverage was denied because of excess income, at the hearing the Department explained that Petitioner had also failed to provide requested verification in the form of paystubs.

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.

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. HMP is a Modified Adjusted Gross Income (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, the Department concluded that Petitioner was not eligible for HMP due to having income that exceeded the applicable income limit for Petitioner's group size as well as due to failing to provide requested verifications. Additionally, the Department determined that Son's coverage was terminated due to a failure to submit verification. 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, Petitioner filed taxes as head of household and claimed one dependent (Son). Therefore, for HMP purposes, Petitioner has a household size of two. BEM 211 (October 1, 2023), pp. 1-2.

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 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 available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

The annual FPL for a household size of two in 2023 was \$19,720. 88 FR 3424 (January 19, 2023). 133% of the FPL, the HMP income limit, is \$26,228, or \$2,185.67 monthly. 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 eligible those individuals 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 [REDACTED] or [REDACTED] monthly. Thus, the maximum

applicable income limit for HMP eligibility with the 5% disregard was [REDACTED] or [REDACTED] monthly.

Here, the Department requested verification of earned income for all household members. Before the Department sent the October 7, 2023 HCCDN closing Petitioner's MA case, Petitioner submitted tax forms including his 1099. He testified that he was self-employed providing cleaning services to a salon, and that his son was a full-time student who had last had earnings in 2021. The Department conceded that the verifications were provided to the Department on October 6, 2023, and Petitioner's HMP eligibility should have been redetermined prior to the closure of his benefits based on information that he was self-employed and that he filed taxes claiming Son as a dependent rather than outdated financial information concerning him and his Son, in its file.

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 did not redetermine Petitioner's eligibility once it received Petitioner's income verifications prior to the closure of his Medicaid benefits.

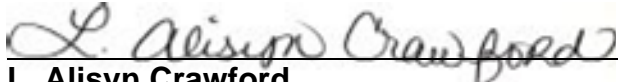
DECISION AND ORDER

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's MA eligibility effective November 1, 2023 using the verified income provided October 6, 2023 and based on a MAGI group size of two;
2. If eligible, provide Petitioner with the most beneficial MA coverage he is eligible to receive from November 1, 2023 ongoing; and
3. Notify Petitioner in writing of its decision.

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]