



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: April 2, 2024  
MOAHR Docket No.: 24-000335  
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 March 6, 2024, via teleconference call. The Petitioner was present at the hearing, as well as his Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

**ISSUE**


Did the Department properly close Petitioner's and his wife's (Wife) 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. Petitioner and Wife were ongoing MA recipients.
2. Petitioner (age [REDACTED] and Wife (age [REDACTED] file taxes jointly and claim four tax dependents (ages [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Exhibit A, p. 12.
3. Petitioner had earned income from employment at [REDACTED]. A Work Number Social Services Verification provided by the Department indicated an annual income for 2023 of [REDACTED] from this employment. Additionally,

during the redetermination review period, Petitioner received the following gross income:

<b>Pay Date</b>	<b>Gross Earnings</b>
9/1/2023	
9/8/2023	
9/15/2023	
9/22/2023	
9/29/2023	

4. On December 2, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing Petitioner that he and Wife were no longer eligible for MA coverage due to excess income. The HCCDN noted Petitioner's annual income as  Exhibit A, pp. 5-10.
5. On January 3, 2024, Petitioner submitted a request for hearing disputing the Department's action regarding their MA case.

### **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.

Upon reviewing Petitioner and Wife's eligibility criteria at redetermination, MDHHS concluded that they were not eligible for MA coverage under any program. Petitioner disputes this finding that he and Wife were no longer eligible for MA.<sup>1</sup>

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<sup>1</sup> With its hearing request, Petitioner provided multiple receipts and bills related to educational expenses such as college tuition payments, medical expenses such as orthodontic care, and transportation costs related to the maintenance of two cars. While reviewed by the undersigned for the purposes of MA eligibility and possible deductions/expenses, the aforementioned expenses are not considered for the purposes of MA eligibility.

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 2021), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 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 and Wife were not age 65 or older, blind or disabled, under age 19, or pregnant or recently pregnant, Petitioner and Wife were 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, the Department concluded that Petitioner and Wife were not eligible for HMP due to having income that exceeded the applicable income limit for their 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. Petitioner filed taxes jointly with Wife and claimed four dependents. Therefore, for HMP purposes, Petitioner has a household size of six. BEM 211 (July 2019), pp. 1-2. 133% of the annual FPL in 2023 (the most current applicable FPL) for a household with six members is [REDACTED]. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED].

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. BEM 500, p. 3. 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](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

Here, the Department based Petitioner's income on a Work Number Social Services Verification report. Although Petitioner and Wife would not be income eligible for HMP as a four-person group, the evidence at the hearing indicated that Petitioner filed taxes jointly with Wife and claimed their four children as dependents. If their four children are Petitioner and Wife's tax dependents, Petitioner's group size for HMP eligibility purposes is six. BEM 211 (July 2019), p. 2. Based on a household group size of six, Petitioner and Wife were potentially income eligible for HMP.

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 closed Petitioner and Wife's MA case.

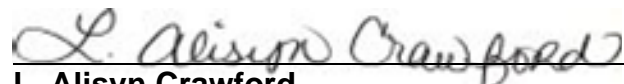
### **DECISION AND ORDER**

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 and Wife's eligibility effective September 1, 2023 ongoing based on a MAGI group size of six;
2. If eligible, provide Petitioner and Wife with the most beneficial MA coverage they are eligible to receive from September 1, 2023 ongoing; and
3. Notify Petitioner and Wife 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**  
Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**  
BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

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

**Authorized Hearing Rep.**  
[REDACTED]  
[REDACTED] MI [REDACTED]