



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 3, 2024
MOAHR Docket No.: 24-000395
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 4, 2024, via telephone conference. Petitioner was present at the hearing and her son, [REDACTED], served as her Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's and Petitioner's Husband's (Husband) 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 and Husband were ongoing recipients of MA.
2. Petitioner and Husband are married.
3. Petitioner (age [REDACTED] and Husband (age [REDACTED] file taxes jointly and claim two tax dependents (ages [REDACTED] and [REDACTED]).
4. Husband received unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI), in the amount of [REDACTED] monthly and is not enrolled in Medicare. Exhibit A, p. 17.

5. On January 2, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA coverage would include a \$1,278 monthly deductible and Husband's monthly deductible was \$1,216 with a group size of three. Exhibit A, pp. 8-15.
6. On January 5, 2024, Petitioner submitted a request for hearing disputing the Department's action regarding her and Husband's MA case. Exhibit A, pp. 3-5.

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.

In this case, the Department determined that Petitioner and Husband were eligible for MA benefits under the Group 2 Caretaker (G2C) program, subject to a monthly deductible of \$1,278 and \$1,216, respectively, with a group size of three. Petitioner disputes the Department's finding and maintains that she and Husband meet the eligibility requirements for full coverage MA without a deductible with a household group size of four.

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, 2024), p. 1; BEM 137 (January 1, 2024), 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 and Husband were not age 65 or older, blind or disabled, under age 19, or pregnant or recently pregnant, Petitioner and Husband 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. Based on the State On-Line Query Internet (SOLQ) summary provided by the Department, Husband receives RSDI but does not qualify for and is not enrolled in Medicare; therefore, he would be eligible for HMP until which time he does qualify for or is enrolled in Medicare. Based on the SOLQ, Husband began receiving his RSDI entitlement on August 1, 2022. Exhibit A, p. 17.

The Department concluded that Petitioner and Husband were not eligible for HMP due to having income that exceeded the applicable income limit for Petitioner's 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. In this case, Petitioner filed taxes with Husband and claimed two dependents. Therefore, for HMP purposes, Petitioner has a household group size of four; not three as the Department indicated on the HCCDN dated January 2, 2024. BEM 211 (October 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. 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 *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.

The annual FPL for a household size of four in 2024 was \$31,200.00. 88 FR 3424 (January 2024). 133% of the FPL, the HMP income limit, is \$41,496.00, or \$3,458.00 monthly. Here, Petitioner does not work, and Husband receives RSDI in the amount of [REDACTED] monthly, or [REDACTED] annually, before any allowable expenses or deductions are applied. Here, Petitioner and Husband's monthly income for is well below the HMP income limit for a group size of four.

During the hearing, the Department testified that a more recent HCCDN was sent to Petitioner on January 30, 2024. Exhibit B, pp. 2-8. The notice indicated that Petitioner and Husband are eligible for full coverage MA effective March 1, 2024 ongoing. Based on the updated HCCDN, Petitioner and Husband were properly determined eligible for full coverage MA for March 1, 2024 ongoing. 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 that Petitioner and Husband were only eligible for Group 2 caretaker coverage with a deductible for January 2024 and February 2024.

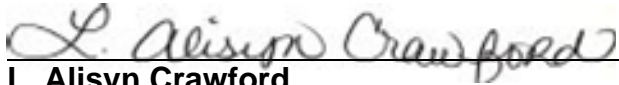
DECISION AND ORDER

Accordingly, the Department's decision regarding MA coverage for January 2024 and February 2024 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 Husband's MA eligibility effective January 1, 2024 based on a MAGI Group size of four;
2. If eligible, provide Petitioner and Husband with the most beneficial MA coverage they are eligible to receive from January 1, 2024 ongoing; and
3. Notify Petitioner and Husband 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:

Authorized Hearing Rep.

[REDACTED]
MI [REDACTED]

Petitioner

[REDACTED]
MI [REDACTED]