



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.: 24-000817
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 14, 2024, via telephone conference. Petitioner was present at the hearing. Petitioner's sister, [REDACTED] served as an interpreter and witness for Petitioner. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

ISSUE


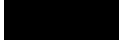
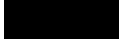

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. Prior to the redetermination, Petitioner was an ongoing MA recipient under the Healthy Michigan Program (HMP).
2. Petitioner is [REDACTED] years old, married, files taxes jointly with her husband, and claims one adult son (Son), age [REDACTED] as a dependent on their tax return.
3. Petitioner did not claim a pregnancy, a disability, or being the caretaker of a minor child in the home.
4. Petitioner's husband (Husband) receives gross income of [REDACTED] per month from Social Security RSDI, as well as employment income from [REDACTED] Inc. (YCL).

5. At some point, the Department notified Petitioner that she was no longer income eligible for MA coverage under HMP but was eligible for limited coverage under Plan First Family Planning (PFFP)
6. In October 2023, Petitioner submitted Husband's paystubs from YCL. that showed the following in gross income:

9/15/2023	
9/22/2023	
9/29/2023	
10/6/2023	
7. On December 20, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) notifying her that Husband was eligible for full-coverage MA for November 1, 2023 ongoing but not identifying any change in Petitioner's MA coverage.
8. On January 16, 2024, the Department received Petitioner's request for hearing disputing the Department's denial of HMP benefits due to excess income.

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.

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.

The Department presented income information it received for Husband in October 2023, and although a HCCDN was issued on December 20, 2023, in response to this income information, the Department did not address Petitioner's eligibility. However, at the hearing the Department explained that Petitioner was a two-person group and that, based on the sum of Husband's income, she was not income eligible for HMP. For a two-person group, the income limit for HMP eligibility in 2023, the year for which the Department made its MA eligibility determination, was \$2,185.67 monthly, or \$26,228 annually. 88 FR 3424 (January 19, 2023). The sum of Husband's income, earned [REDACTED] monthly) and unearned [REDACTED] monthly), totals [REDACTED] monthly, or [REDACTED] annually.. With a two-person group size, Petitioner's household income is over the HMP income limit.

Although Petitioner would not be income eligible for HMP as a two-person group, the evidence at the hearing indicated that Petitioner filed taxes jointly with Husband and in 2022 claimed Son as a dependent. If Son is Petitioner and Husband's tax dependent, Petitioner's group size for HMP eligibility purposes is three. BEM 211 (October 2023), p. 2. Based on a group size of three, the income limit for HMP eligibility would increase to \$33,064 annually, or \$2,755.33 per month. 88 FR 3424 (January 19, 2023). Although Petitioner expressed concerns at the hearing about Son's income being included in her MA income eligibility determination, the MAGI-based income of an individual who is included in the household of his or her natural parent is excluded if that individual is not expected to be required to file a tax return under federal law for the taxable year in which Medicaid eligibility is being determined, whether or not such individual files a tax return. 42 CFR 435.603(d)(2)(i). Therefore, if Son is not required to file a tax return, regardless of whether he does so, his income would not be included in the calculation of Petitioner's group's income in determining her HMP eligibility even though he would be counted as a group member. Because the Department acknowledged that Petitioner identified Son as her and Husband's tax dependent, the Department erred in not including Son in Petitioner's group in determining her MA eligibility.

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

satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was not income eligible for HMP coverage.

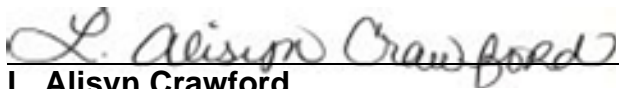
DECISION AND ORDER

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 eligibility for HMP accounting for a three-person group size as opposed to two if Petitioner reported to the Department that Son is a tax dependent;
2. Redetermine whether Son's income should be included in household income amount based on his dependent status and annual income;
3. Provide Petitioner with the most beneficial MA coverage she is eligible to receive; and
4. 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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties
M Schaefer
EQAD
MOAHR

Via First Class Mail:

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