



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
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 11, 2024
MOAHR Docket No.: 24-000883
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 13, 2024. Petitioner was present at the hearing and represented herself. [REDACTED] [REDACTED] an Arabic interpreter, was also present at the hearing and served as translator. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) coverage under Plan First Family Planning (PFFP)?

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 Program (HMP).
2. Petitioner is married and files taxes jointly with her husband.
3. Petitioner is recently pregnant, with a delivery due date of [REDACTED] 2024.
4. Petitioner is a U.S. citizen.

5. Petitioner has varying employment and earnings from [REDACTED] (Employer) as a substitute teacher. The following paystubs were considered by the Department in connection with Petitioner's MA redetermination:

| Pay Date | Gross Payment Amount |
|-------------------|-----------------------------|
| November 3, 2023 | \$ [REDACTED] |
| November 17, 2023 | \$ [REDACTED] |
| December 15, 2023 | \$ [REDACTED] |
| December 29, 2023 | \$ [REDACTED] |

6. On January 10, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective January 1, 2024, she was approved for Emergency Services Only (ESO). Exhibit A, p. 7.
7. On January 24, 2024, the Department received a Petitioner's request for hearing disputing the Department's action regarding her MA coverage.
8. On January 31, 2024, the Department issued a HCCDN to Petitioner informing her that effective March 1, 2024 ongoing, she was approved for PFFP.

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's ongoing MA eligibility, the Department initially concluded that Petitioner was eligible for ESO coverage under the Healthy Michigan Plan, but, upon receipt of Petitioner's hearing request, reassessed her eligibility, determined that her income had not been properly budgeted, and concluded that Petitioner was eligible for MA coverage under the PFFP program. Petitioner disputes this coverage.

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 Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), 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.

PW Medicaid cannot be terminated during pregnancy or postpartum period unless the women request the closure, moves out of state, or dies. A pregnant woman who is income eligible for one calendar month based on the income limit is automatically income eligible for each following calendar month through the twelfth calendar month after the month her pregnancy ends. *Id.* at p. 2. For PW coverage, the fiscal group's net income cannot exceed 195 percent of the federal poverty level and household composition follows tax filing rules as identified by policy at BEM 211.

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. However, at the hearing, the Petitioner stated that she was recently pregnant and that she had informed the Department of her pregnancy in February 2024. The Department confirmed that it was provided medical documentation from Petitioner regarding her pregnancy on February 1, 2024; however, the information had not yet, at the time of the hearing, been updated in Petitioner's case file.

Based on Petitioner's pregnancy, she is potentially eligible for coverage under the Pregnant Women (PW) program. PW coverage is a MAGI-related MA category. BEM 125 (April 2022), p. 1. This program is available to a woman while she is pregnant, the month her pregnancy ends, and during the twelve calendar postpartum months following the month her pregnancy ended regardless of the reason (for example, live birth, miscarriage, stillborn). BEM 125, p. 1. An individual is eligible for PW if the household's MAGI-income does not exceed 195% of the FPL applicable to the individual's group size. BEM 125, p. 1. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. BEM 211, p. 1. In this case, Petitioner is married, pregnant, filed taxes, and claimed no dependents. Further, for a household that includes a pregnant woman, the pregnant woman is counted as herself and the number of children she is carrying. BEM 211, p. 5. Therefore, for PW purposes, Petitioner has a household size of at least three. 195% of the annual FPL in 2024 (the most current applicable FPL) for a household with three members is \$50,349, or \$4,195.75 monthly. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PW, Petitioner's annual income cannot exceed \$50,349, or \$4,195.75 monthly.

At the hearing, the Department testified that it in connection with determining Petitioner's eligibility for HMP, it concluded that Petitioner's monthly household income under that MAGI-related policies was \$1,849, which is well below the PW income limit. Further, even if Petitioner's household income exceeded the PW income limit,

Petitioner, as a pregnant woman, would potentially also be eligible for MA under the Group 2 Pregnant Women (G2P) program, with MA coverage subject to a monthly deductible, which is usually met at the first office visit. BEM 126 (April 2022), p. 1.

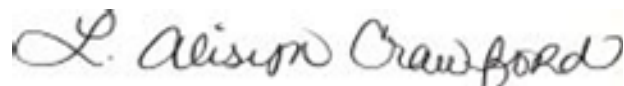
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner was eligible for PFFP coverage only.

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. Update Petitioner's case file regarding her pregnancy, marriage status, and tax filing status;
2. Redetermine Petitioner's eligibility for MA benefits based on her reported pregnancy date,
3. If Petitioner is eligible for MA, provide Petitioner with most beneficial MA coverage she is eligible to receive; and
4. Notify Petitioner in writing of its decision.



L. Alisyn Crawford
Administrative Law Judge

LC/nr

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
Wayne 19 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED], MI [REDACTED]