



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]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: April 5, 2024
MOAHR Docket No.: 24-000959
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 7, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Princess Ogundipe, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) cases for all her family members?

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).
2. Petitioner, age [REDACTED] is married and resides in a household with her husband (Husband, age [REDACTED] and their three minor children.
3. Husband is employed at [REDACTED] (BC).
4. Petitioner is unemployed.

5. Petitioner completed a redetermination for MA on October 30, 2023. She reported that Husband was employed at BC and both she and Husband had self-employment income. (Exhibit A, p. 18).
6. On December 1, 2023, the Department sent Petitioner (i) a Health Care Coverage Determination Notice (HCCDN) informing her that she and Husband were no longer eligible for MA coverage due to excess income and (ii) a Verification Checklist (VCL) requesting verification of all earned and unearned income for the previous 30 days due by December 11, 2023.
7. On January 12, 2024, the Department received Petitioner's request for hearing disputing the Department's action.

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 she is no longer eligible for MA. Although the December 1, 2023 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 regarding self-employment income.

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 (October 2023), 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 was not age 65 or older, blind or disabled, under age 19, or pregnant or recently pregnant, Petitioner was potentially eligible for MA coverage 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, MDHHS concluded that Petitioner was 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, although Petitioner testified that she had not filed taxes since 2022, in the redetermination she indicated that she filed taxes jointly with her husband and claimed dependents. Assuming that the dependents are her three minor children, for HMP purposes, Petitioner has a household size of five. BEM 211 (October 2023), pp. 1-2. 133% of the annual FPL for a 5-person household in 2023 (when Petitioner's redetermination was processed) 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.

Here, the Department testified that Petitioner and Spouse's MA eligibility was based on the following income: (1) [REDACTED] for Spouse's employment at BC; (2) [REDACTED] for Spouse's self-employment, and (3) [REDACTED] for Petitioner's self-employment. However, the Department could not identify the basis for each of the employment sources.

Further, even if Petitioner had excess income for HMP eligibility, because Petitioner and Husband are the parents of minor children, the Department was required to assess their eligibility for MA under the Group 2 Caretaker Relative (G2C) program, and there was no evidence that the Department did so in this case. Therefore, the Department failed to establish that Petitioner and Husband were ineligible for MA due to excess income.

At the hearing, the Department also alleged that Petitioner failed to provide requested verifications. Verification is usually required at redetermination and for a reported change affecting eligibility. BAM 130 (October 2023), p. 1; BEM 500 (April 2022), pp. 13-14 (requiring verification of all non-excluded income at redetermination). Petitioner acknowledged in her redetermination and at the hearing that Husband is employed with BC. Although she testified that neither she nor Spouse had had any self-employment income since 2012, in the redetermination Petitioner submitted to the Department on October 23, 2023, she reported that both she and Husband had self-employment income. (Exhibit A, p. 18). Therefore, the Department could properly request income verification for earned and self-employment income in connection with processing the redetermination. However, the Department sent Petitioner a VCL on December 1, 2023, requesting employment and self-employment income information for the preceding 30 days on the same day it sent her the HCCDN notifying her that she and Husband were denied MA due to excess income. (Exhibit A, pp. 9-10; 11-15) Although the Department also alleged that it did not timely receive the requested income verifications, Petitioner had already been notified of the MA case closure before the December 11, 2023 VCL due date. The Department may not send a negative action notice until the client has refused to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 130.

Because MDHHS could not explain the income sources used to determine that Petitioner and Husband had excess income for MA and requested verification of income at the same time they notified Petitioner that she had excess income, the Department did not act in accordance with Department policy.

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's MA case.

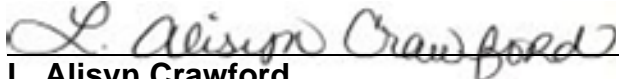
DECISION AND ORDER

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 eligibility effective January 1, 2024 ongoing;
2. If eligible, provide Petitioner, Husband, and minor children with the most beneficial MA coverage they are eligible to receive from January 1, 2024 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

Jared Ritch

Oakland County Pontiac-Woodward Dist.

51111 Woodward Ave 5th Floor

Pontiac, MI 48342

MDHHS-Oakland-District-IV-Hearings@michigan.gov

Interested Parties

BSC4

M Schaefer

EQAD

Via First Class Mail:

Petitioner

[REDACTED]
MI