



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: March 14, 2024  
MOAHR Docket No.: 24-001046  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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, from [REDACTED] Michigan. Petitioner was represented her husband/Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Megan Iotonna, Hearing Facilitator.

### **ISSUE**

Did the Department properly process Petitioner's Medical Assistance (MA) benefits?

### **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's household includes herself, her husband [REDACTED] her [REDACTED] year-old daughter [REDACTED] and a minor child.
2. Petitioner and her husband were previously approved for MA under the Healthy Michigan Plan. Petitioner's daughter [REDACTED] was previously approved for MA under the Healthy Kids Expansion (HKE) program, as she was under age [REDACTED]
3. In connection with a redetermination, MA eligibility for the household was reviewed.

4. Petitioner and her husband are both employed. Petitioner and her husband file taxes jointly and claim their two children as tax dependents.
5. In processing the redetermination, the Department asserted that it only included income for Petitioner's husband in error.
6. On or around January 18, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective February 1, 2024, Petitioner, her husband, and her daughter were eligible for MA under the limited coverage Plan First (PF) MA program. (Exhibit A, pp. 50-53)
7. Although not reflected on the Notice, the Department asserted that Petitioner, her husband, and her daughter were not eligible for the HMP MA category due to excess income.
8. The Department did not determine the household's eligibility for MA under any Group 2 category.
9. On or around January 31, 2024, Petitioner requested a hearing disputing the Department actions with respect to the Food Assistance Program (FAP) and the MA program.
  - a. At the hearing, Petitioner's AHR asserted that the FAP box was checked on the request for hearing in error and that there was no dispute concerning the FAP. The hearing request with respect to FAP was withdrawn and will be dismissed.

### **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 (July 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.

In this case, the hearing was requested to dispute the Department's actions regarding the MA program. At the hearing, Petitioner's AHR specified that at issue was MA eligibility for himself, Petitioner, and their [REDACTED]-year-old daughter. The Department asserted that Petitioner's minor child, a [REDACTED]-year-old son had been approved for full coverage MA at the time the redetermination was processed. The Department representative testified that prior to the redetermination, Petitioner and her husband were both approved for MA under the HMP, and their daughter was approved for MA under the HKE program, both full coverage MA programs. However, after processing the redetermination, the Department properly concluded that because Petitioner's daughter was not under age [REDACTED] she was no longer eligible for MA under the HKE expansion program. See BEM 105, pp. 1, 3-4; BEM 130 (July 2021), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. The Department representative testified that because Petitioner's daughter had turned [REDACTED] her MA eligibility under the HMP was determined. The Department representative testified that based on the household's income, Petitioner, her husband, and daughter were not eligible for HMP or a full coverage MA program.

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.

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 and dependents. Petitioner and her husband file taxes jointly and claim their two children as tax dependents. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). Therefore, for HMP purposes, Petitioner, her husband, and daughter have a household size of four. The FPL for a group size of four in 2023 is \$ [REDACTED] 133% of the annual FPL in 2023, the year in which the review was completed, for a household with four members is \$ [REDACTED]. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$ [REDACTED] and thus, the monthly income cannot exceed \$ [REDACTED] as current MA beneficiaries. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2;

BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$ [REDACTED] or \$ [REDACTED] monthly.

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. *Id.* 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 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. 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).

In this case, the Department representative testified that it only considered income earned from Petitioner's husband's employment. The Department representative testified that although Petitioner also had earned income, at the time the redetermination was processed, the Department had not included Petitioner's earnings in the income calculation for the household. During the hearing, the Department identified each of the paystubs considered in the MAGI determination. The Department considered gross weekly earnings from Petitioner's husband's employment with [REDACTED]. Specifically, the Department considered [REDACTED] paid on December 1, 2023; [REDACTED] paid on December 8, 2023; [REDACTED] paid on December 15, 2023; and [REDACTED] paid on December 22, 2023. (Exhibit A, pp. 32-36). Based on the above referenced policy however, the Department should have considered the federal taxable wages identified on the paystubs for Petitioner's husband and not gross wages. Upon review of the paystub submitted, Petitioner's husband received federal taxable wages of [REDACTED] on December 1, 2023; [REDACTED] on December 8, 2023; [REDACTED] on December 15, 2023; and [REDACTED] on December 22, 2023. Additionally, although not considered at the time of the redetermination, Petitioner had employment with [REDACTED] and paystubs show earnings of [REDACTED] on October 27, 2023, and [REDACTED] on November 10, 2023. There were no applicable deductions identified on Petitioner's paystubs and the evidence suggested that these earnings continued. (Exhibit A, pp. 37-38). Petitioner's AHR testified that as of January 2024, Petitioner no longer works 20 hours per week and that she had extra hours of employment around Christmas time. However, Petitioner's AHR confirmed that

the paystubs relied upon by the Department were accurate at the time the redetermination was completed. Petitioner's AHR was informed that updated paystubs could be submitted, and a more current MA eligibility determination would be made by the Department.

Based on the information available to the Department at the time the redetermination was completed, in consideration of the monthly federal taxable wages of both Petitioner (██████████) and her husband (██████████) the household's monthly income was ██████████ or ██████████ annually. Because the household income is greater than the income limit identified above, the Department properly concluded that Petitioner, her husband, and daughter were not eligible for MA benefits under the HMP.

Although Petitioner and her husband were not eligible for HMP coverage, parents are potentially eligible for MA under the Group 2 Caretaker Relative (G2C) program. Additionally, because Petitioner's daughter is under age 21, she is potentially eligible for MA under the Group 2 Under 21 (G2U) category. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (January 2021), p. 1. For Group 2 categories, there is a monthly deductible equal to the amount the household's monthly net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is based on the fiscal group size for Group 2 MA categories and the county of residence. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. See BEM 105 (January 2016), p. 2; BAM 220 (January 2016), pp. 17-19; BAM 210 (January 2016), p. 1; BEM 135 (October 2015), p. 1.

At the hearing, the Department conceded that it did not consider MA eligibility for Petitioner, her husband, or her daughter under the Group 2 categories. Therefore, 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 processed Petitioner's MA case.

### **DECISION AND ORDER**


Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA 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 MA eligibility for Petitioner, Petitioner's husband, and Petitioner's daughter under the most beneficial category for February 1, 2024, ongoing;

2. If eligible, provide MA coverage to Petitioner, Petitioner's husband, and daughter under the most beneficial category, that they were entitled to receive but did not from February 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
\_\_\_\_\_  
**Zainab A. Baydoun**  
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**  
Dawn Tromontine  
Macomb County DHHS Sterling Heights Dist.  
41227 Mound Rd.  
Sterling Heights, MI 48314  
**MDHHS-Macomb-36-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD

**Via First Class Mail:**

**Petitioner**

[REDACTED], MI [REDACTED]

**Authorized Hearing Rep.**

[REDACTED] MI [REDACTED]