



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA  
DIRECTOR

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Date Mailed: April 11, 2024  
MOAHR Docket No.: 24-001048  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 12, 2024, from Lansing, Michigan. ██████ ██████ niece, appeared on behalf of Petitioner and provided interpretation. ██████ ██████ the Petitioner, was present. The Department of Health and Human Services (Department) was represented by Sabrina Anthony, Eligibility Specialist (ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-51.

**ISSUE**

Did the Department properly determine Petitioner's family's 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 had full coverage Medicaid under the Healthy Michigan Program (MA HMP) prior to the December 2023 redetermination. (ES Testimony)
2. On November ██████ 2023, Petitioner submitted a redetermination for the MA case. Petitioner also provided a bank statement and a medical bill. (Exhibit A, pp. 13-21)
3. A report from The Work Number verified household income from employment for Petitioner and her spouse. (Exhibit A, pp. 22-33)

4. The Department verified household income from Social Security Administration (SSA) issued benefits her son receives. (Exhibit A, pp. 34-36)
5. Petitioner's son receives the SSA issued benefits because his father passed away. (Petitioner Testimony)
6. The Department determined that Petitioner and her son were no longer eligible for MA due to income and assets in excess of program limits. (Exhibit A, p. 3)
7. On January ■ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating that: Petitioner, her daughter, and her son were eligible for full coverage MA for January 2024; Petitioner's daughter was eligible for full coverage MA for February 1, 2024 and ongoing; Petitioner was not eligible for MA as of February 1, 2024; and Petitioner's son was not eligible for MA as of February 1, 2024. (Exhibit A, pp. 37-42)
8. On January ■ 2024, Petitioner submitted a hearing request contesting the Department's determination. (Exhibit A, pp. 4-11)
9. On February ■ 2024, the Department reviewed the case and found an error was made regarding asset eligibility and MA eligibility was re-determined. (Exhibit A, pp. 3 and 50-51)
10. On February 8, 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving MA for Petitioner with a monthly deductible of \$4,649.00 effective February 1, 2024 and approving MA for Petitioner's son with a monthly deductible of \$6,929.00 effective February 1, 2024. (Exhibit A, pp. 43-49)

### **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.

The Medicaid program comprise several sub-programs or categories. BEM 105, January 1, 2024, p. 1.

Plan First MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, January 1, 2024, p. 1.

Group 2 Under 21 is a non-MAGI MA category. BEM 105, January 1, 2024, p. 2. Medicaid is available to a person who is under age 21 and meets the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested. BEM 132, April 1, 2018, pp. 1-2.

Group 2 Caretaker Relative is a non-MAGI MA category. BEM 105 January 1, 2024, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM

544. Apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 135, October 1, 2015, p. 2.

For the Group 2 Under 21 and Caretaker Relative MA categories, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536 July 1, 2019, p. 1. The BEM 536 policy outlines the 16 step process to determine a fiscal group member's income. BEM 536, July 1, 2019, pp. 1-7.

When determining Group 2 needs, the department utilizes a protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA PILs based on shelter area and fiscal group size. RFT 200 lists the counties in each shelter area. The Department can count the cost of any health insurance premiums as a need item. BEM 544, January 1, 2020, p. 1. Macomb county is part of shelter area VI. RFT 200, April 1, 2017, p. 3. In shelter area VI, for a group size of 2 the PIL is \$541.00 and for a group size of 3 the PIL is \$567.00. RFT 240, December 1, 2013, p. 1.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12

The Department counts the gross benefit amount of SSA issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department counts the gross wage amount as earned income. BEM 501, January 1, 2024, p. 7.

In this case, the Department acknowledged that an error was made regarding assets when the January ■ 2024 determination was made. However, the Department subsequently corrected that error and redetermined MA eligibility for Petitioner and her son. Petitioner's son was potentially eligible for MA under the Group 2 Under 21 MA category and Petitioner potentially eligible for MA under the Group 2 Caretaker Relative category. However, due to excess income, Petitioner's son would have a monthly deductible of \$■■■■■ and Petitioner would have a monthly deductible of \$■■■■■ (Exhibit A, pp. 50-51). As indicated in the above cited BEM 536 policy, a separate fiscal group is established for each household member for these MA categories and budgetable income is determined for each fiscal group member. How a client's income must be considered may differ among family members. Accordingly, special rules are used to prorate a person's income among the person's dependents, and themselves. The

Department provided the MA budgets showing how the prorated income was utilized to determine the deductible amounts. (Exhibit A, pp. 50-51).

Petitioner explained that her husband's income goes to pay bills. They are paying off a mortgage and a car. The taxes for the home are also very high. However, the above referenced polices for determining income eligibility for MA do not allow for these types of expenses to be specifically included in the MA budgets. Pursuant to the BEM 544 policy, the Department must utilize the PIL, which is a set allowance for non-medical need items such as shelter, food, and incidental expenses.

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 acted in accordance with Department policy when it determined Petitioner's family's eligibility for MA when it redetermined eligibility after correcting the error with assets.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/dm

  
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**Colleen Lack**  
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**  
Chelsea McCune  
Macomb County DHHS Warren Dist.  
**MDHHS-Macomb-20-  
Hearings@michigan.gov**

**SchaeferM**

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**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]