



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: May 15, 2024
MOAHR Docket No.: 24-002511
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 April 15, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Jason Cole, Eligibility Specialist, and Shaton Mason, Family Independence Supervisor.

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. Petitioner was an ongoing recipient of MA coverage under the Freedom to Work (FTW) program.
2. Petitioner is [REDACTED] years old and lives with her adopted granddaughter, who is [REDACTED] years old. (Exhibit A, p. 3).
3. Petitioner stopped working in November 2023.
4. Petitioner had surgery in February 2024.
5. On February 26, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective April 1,

2024, she no longer met the criteria for FTW coverage as she was not currently employed and/or disabled. (Exhibit A, p. 20).

6. On March 4, 2024, Petitioner submitted a hearing request disputing the Department's determination. (Exhibit A, p. 3).
7. In connection with the hearing request filed by Petitioner, the Department issued a HCCDN dated March 12, 2024 informing Petitioner that effective April 1, 2024, she was eligible for MA coverage with a monthly deductible \$1,156. (Exhibit A, p. 7).

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.

In her hearing request, Petitioner disputes the Department's finding that she was no longer eligible for MA under the FTW program due to being unemployed and that she was not disabled or a caretaker of a minor.

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 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.

FTW is a Group 1 SSI-related MA program available to a client aged 16 through 64 with disabilities and earned income. BEM 174 (October 2020), p. 1. To meet non-financial eligibility factors for FTW, the client must be disabled according to the disability standards of the Social Security Administration, must be employed, and meet MA

eligibility factors such as residence. BEM 174, pp. 1-2. The FTW program does allow the client to have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary. BEM 174, p. 1. This allows the client to retain FTW eligibility and the Department verification of the break can be satisfied through client statements. BEM 174, p. 1.

Here, Petitioner testified that she stopped working in November 2023, and subsequently, had surgery in February 2024. Petitioner testified that while she was unable to work after having surgery, she is currently working with Department staff at FTW to secure new employment. At the hearing, the Department was unable to clarify whether Petitioner had ever used a temporary break in the past or failed to establish whether it asked Petitioner if her unemployment beginning in November 2023 followed by surgery in February 2024 was medically necessary. If so, Petitioner's unemployment would qualify as a temporary break in order retain FTW coverage. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy relating to FTW coverage.

Once the Department determined that Petitioner was no longer eligible for FTW coverage due to her break in employment, it also determined that she was no longer eligible for any other MA program as she was not disabled or the caretaker of a minor. However, the Department, following Petitioner's request for hearing, reviewed Petitioner's eligibility for other MA programs and sent Petitioner a HCCDN dated March 12, 2024, stating that effective April 1, 2024 ongoing, Petitioner was eligible for MA coverage under a Group 2 SSI-related (G2S) program with a \$1,156 monthly deductible. (Exhibit A, p. 7). However, Petitioner is the caretaker of a minor child, and, if not eligible for FTW, she is potentially eligible for MA under the Group 2 Caretaker/Relative (G2C) program, which would provide for MA coverage with a deductible less than that under the G2S program.

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 determined that Petitioner was no longer eligible for MA coverage under FTW and when it determined that Petitioner was only eligible for MA coverage under a G2S program.

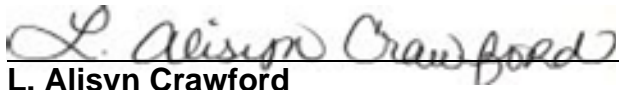
DECISION AND ORDER

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 whether Petitioner's lack of employment from November 2023 through March 2024 qualifies as a temporary break in employment under FTW policy;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive from April 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

Keisha Koger-Roper
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227

MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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