



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 7, 2024  
MOAHR Docket No.: 24-002788  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Julia Norton**

### **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 29, 2024. The Petitioner was not present and was represented by [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's and Spouse's eligibility for Medicaid (MA) coverage?

### **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 and Spouse were ongoing recipients of MA under the Healthy Michigan Plan (HMP).
2. Petitioner is [REDACTED] years old and Spouse is [REDACTED] years old.
3. Petitioner and Spouse file taxes as married filing jointly and claim no dependents.
4. Petitioner does not have income and Spouse has earned income from his employer, [REDACTED] Exhibit A, pp. 8-10.

5. The Department determined Petitioner and Spouse were ineligible for HMP because their annual household income exceeded the income limit for a household size of two. HMP coverage ended on March 31, 2024.
6. On March 1, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that both Petitioner and Spouse were eligible for Plan First Family Planning (PFFP) coverage, effective April 1, 2024, ongoing. Exhibit A, pp. 12-14.
7. On March 12, 2024, the Department received Petitioner's request for a hearing. Exhibit A, pp. 3-5.

### **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 this case, Petitioner and Spouse dispute the Department's determination of their MA eligibility.

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, p. 2; 42 CFR 435.404.

In this case, Petitioner and Spouse were not age 65 or older, blind or disabled, under age 19, the parent or caretaker of a minor child, or pregnant or recently pregnant.

Therefore, the Department properly reviewed Petitioner's and Spouse's eligibility for MA coverage under full coverage 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.

The Department testified that Petitioner and Spouse were not eligible for HMP because their household income exceeded the applicable program income limit for a group size of two. 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 Spouse are married and file taxes jointly and do not claim any dependents. Therefore, for HMP purposes, Petitioner and Spouse have a household size of two. The FPL for a household size of two in 2024 is \$20,440.00. 133% of the annual FPL for a household size of two is \$27,185.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and Spouse's annual income cannot exceed \$27,185.20, and thus, the monthly income cannot exceed \$2,265.43. 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. BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$28,207.20, or \$2,350.60 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, 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 line 11 of IRS tax forms 1040, 1040-SR, and 1040-NR. 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, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly household income and family size and further consider reasonably predictable changes in income. 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 testified that it initially used the December 2023 paystubs to determine Spouse's monthly MAGI of ██████████ but then revised the monthly MAGI to ██████████ using the January 2024 paystubs. The Department did not explain why it recalculated the monthly MAGI using the January 2024 paystubs. The January 2024 MAGI amount of ██████████ was based on the gross income amounts on two paystubs received in January 2024 in the amounts of ██████████ 1,372.95 (dated January 11, 2024) and ██████████ (dated January 25, 2024). The Department testified that it calculated Spouse's income using gross income from both paystubs and did not reduce gross income by any health coverage deductions. The January 11, 2024, paystub was the only January paystub submitted as evidence. The paystub reflects a deduction for medical insurance and vision totaling \$92.26. Exhibit A, p. 8. The paystub also lists a federal taxable income amount of ██████████ *Id.* Regarding the January 25, 2024, paystub, the Department did not testify as to the amount of federal taxable wages but did state there were medical insurance and vision deductions totaling \$92.26.

MAGI income 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, childcare, or retirement savings. In determining the MAGI income, the Department should have used the federal taxable wages since they were provided on the paystubs. Because the federal taxable wage amounts were available, the Department erred in using the gross income amounts in calculating the monthly MAGI.

The Department did not properly calculate Petitioner's and Spouse's monthly MAGI and therefore could not conclude that Petitioner and Spouse were ineligible for HMP.

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 not eligible for HMP.

**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 and Spouse's eligibility for any MA coverage for April 1, 2024, ongoing in accordance with policy.
2. If eligible for MA coverage, provide Petitioner and Spouse with the best available coverage for April 1, 2024, ongoing.
3. Notify Petitioner of its decision in writing.



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**Julia Norton**  
Administrative Law Judge

JN/ml

**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**

Tara Roland 82-17

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8655 Greenfield

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**Interested Parties**

BSC4

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**Via First Class Mail:**

**Authorized Hearing Rep.**

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**Petitioner**

[REDACTED]

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[REDACTED] MI [REDACTED]