



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



Date Mailed: April 23, 2024  
MOAHR Docket No.: 24-002804  
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 April 17, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kathleen Lamphier, Assistance Payments Worker.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for 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 was previously an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP).
2. On or around December 12, 2023, the Department sent Petitioner a notice, advising that her MA case would be closed effective January 1, 2024. Although the Department representative testified that Petitioner was found to have excess income for the HMP, the notice was not presented for review and thus, the reason for the closure was unverified.
3. On or around December 18, 2023, Petitioner submitted an application requesting MA benefits. (Exhibit A, pp. 6-12)

- a. On the application, Petitioner reported that she is employed an average of 30 hours per week and is paid [REDACTED] per hour, biweekly. Petitioner reported that her hours were decreased, and she is estimated to make [REDACTED] in income next year.
4. On or around December 26, 2023, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of her paystubs by January 5, 2024. (Exhibit A, pp. 13-14)
5. Petitioner confirmed: that she is [REDACTED] years old; that she has not been determined disabled; that she is not enrolled in Medicare; that she is not the parent or caretaker of a minor child; that she files a tax return; that she is not claiming any dependents on her tax return and that she is not claimed as a dependent on another individual's tax return. Therefore, Petitioner's household size for MA purposes is one.
6. On or around January 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective February 1, 2024, Petitioner was ineligible for MA under all programs. The Notice advised Petitioner that she was ineligible for HMP due to excess income. (Exhibit A, pp. 20-23)
7. On or around March 7, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits.

### **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, because Petitioner was not age [REDACTED] or older, blind or disabled, under age 19, the parent or caretaker of a minor child, or pregnant or recently pregnant, the Department testified that Petitioner was potentially eligible for MA coverage under full coverage HMP or the limited coverage Plan First Medicaid category.

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 representative testified that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her 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 and dependents. Petitioner files taxes and does not claim any 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 has a household size of one. The FPL for a group size of one in 2023 is \$14,580. 133% of the annual FPL in 2023, the year in which the application was submitted, for a household with one member is \$19,391.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$19,391.40, and thus, the monthly income cannot exceed \$1,615.95, as she was a new applicant. 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 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When

determining financial eligibility of new applicants for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. 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 Petitioner's monthly MAGI from employment was [REDACTED]. Specifically, the Department representative testified that it relied on income information from paystubs submitted by Petitioner for her employment with Pace. Petitioner submitted a paystub with a pay date of November 24, 2023, showing gross biweekly wages of [REDACTED] for 80.36 hours worked. Petitioner also submitted a paystub from December 8, 2023, showing gross biweekly wages of [REDACTED] for 61.59 hours worked. The paystubs show that for the November 24, 2023, pay date \$40.35 was deducted from Petitioner's wages towards a 401(k) contribution, resulting in federal taxable wages of [REDACTED]. The December 8, 2023, paystub reflects federal taxable wages of [REDACTED] after \$30.93 is deducted for Petitioner's 401(k) contribution. (Exhibit A, pp. 15-16). The Department representative testified that because Petitioner reported that her hours were reduced as her position had changed, the Department considered only the paystub from December 8, 2023, because it reflected Petitioner's new position and reduced hours. The Department representative testified that it considered gross wages rather than federal taxable wages. In consideration of federal taxable wages of [REDACTED], and Petitioner's biweekly pay, Petitioner's MAGI for the application month would be [REDACTED].

Petitioner did not dispute that the income amounts relied upon by the Department were correct. Petitioner testified that her hours fluctuate between 25 to 30 hours weekly and her pay has been reduced. Petitioner was informed that updated paystubs could be submitted, and a more current MA eligibility determination would be made by the Department if there has been a further reduction in her earnings.

Upon review, because Petitioner's household MAGI of [REDACTED] income is greater than the income limit of \$1,676.67, identified above, the Department properly concluded that Petitioner was ineligible for full coverage MA benefits under the HMP for January 1, 2024, ongoing. Although Petitioner was not eligible for HMP coverage, the Department failed to establish that Petitioner had excess income for the limited coverage Plan First MA category, due to excess income, which has an income limit to not exceed 195% of the FPL, \$28,431 annually, or \$2,369.25. BEM 124 (July 2023), p. 1

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 determined that Petitioner was ineligible for MA under all categories.


**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 MA eligibility for Petitioner under the most beneficial category for January 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner under the most beneficial category, that she was entitled to receive but did not from January 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
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**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**

Yvonne Hill

Oakland County DHHS Madison Heights Dist.

30755 Montpelier Drive

Madison Heights, MI 48071

**MDHHS-Oakland-DistrictII-Hearings@michigan.gov**

**Interested Parties**

BSC 4

M Schaefer

EQAD

**Via First Class Mail:**

**Petitioner**

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