



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 20, 2024
MOAHR Docket No.: 24-003013
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 hearing was held by telephone on April 25, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kimberly Jefferson, Assistance Payments Worker, and Cathy Burr, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Medicaid (MA) eligibility from November 2023 ongoing?

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 is [REDACTED] years old, not married, and not a dependent on another's income tax return. (Exhibit A, pp. 35, 40 – 41).
2. Through October 2023, Petitioner had MA coverage under the Healthy Michigan Plan (HMP).
3. Starting November 2023, Petitioner's HMP case closed and she was approved for Plan First Family Planning (PFFP), under her case number in December 2023 and her mother's case number in November 2023 and January 2024 ongoing. (Exhibit

A, p. 32) Petitioner was employed with [REDACTED] [REDACTED] [REDACTED] (Employer) and provided paystubs to the Department for pay dates of November 29, 2023 and December 13, 2023, which reflect that Petitioner was paid bi-weekly. (Exhibit A, pp. 27 – 28).

4. The Department budgeted Petitioner’s income for November 2023 through February 2024 as follows:

November 2023	\$ [REDACTED]
December 2023	[REDACTED]
January 2024	[REDACTED]
February 2024	[REDACTED]

(Exhibit A, pp. 27 – 28).

5. On March 15, 2024, the Department received Petitioner’s request for hearing disputing denial of MA coverage.

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.

Petitioner requested a hearing to dispute her MA coverage.

Determining whether the Department properly determined an individual’s MA eligibility requires consideration of all MA categories. Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category, which is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105 (October 2023), p. 2. All MA category options must be considered in order for the Petitioner’s right of choice to be meaningful. BEM 105, p. 2. 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, and (iii) to individuals who meet the eligibility

criteria for HMP coverage, and (iv) to individuals who meet the eligibility criteria for PFFP. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1.

Because Petitioner is 23 years old, not blind or disabled, not pregnant, and not a caretaker of a minor child, she is potentially eligible for HMP or PFFP. PFFP is a limited coverage MAGI-related MA category (BEM 124, p. 1), while HMP provides broader coverage and is, therefore, a more beneficial coverage for individuals.

To qualify for health care coverage under HMP, the individual must:

- be 19-64 years of age,
- not qualify for or be enrolled in Medicare,
- not qualify for or be enrolled in other Medicaid programs,
- not be 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, p. 1.

An individual is eligible for HMP if their Modified Adjusted Gross Income (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. Here, Petitioner filed her own taxes and claimed no dependents. Therefore, for HMP purposes, Petitioner has a household size of one. BEM 211 (October 2023), pp. 1 – 2.

The annual FPL for a household size of one in 2023 was \$14,580. 88 FR 3424 (January 2023). The HMP income limit is 133% of the FPL, which was \$19,391.40 annually, or \$1,615.95 per month, for 2023. For MAGI-related plans, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (April 2022), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5. Practically speaking, what this means to the Petitioner is that the FPL is essentially increased by 5%, if needed in order to find Petitioner eligible for HMP. BEM 500, p. 5. 5% of the FPL of \$19,391.40 is \$729. Therefore, the total income limit, with the disregard, was \$20,120.40, or \$1,676.70 per month for 2023.

The 2024 annual FPL for a household size of one increased to \$15,060 starting in January 2024. 89 FR 2961 (January 2024). Therefore, the HMP income limit in 2024 was \$20,029.80 annually, or \$1,669.15 per month. With the 5% disregard, the HMP income limit for 2024 increased to \$20,782.80 annually, or \$1,731.90 per month.

To determine Petitioner's MAGI-income, the Department calculates the countable income of the group. BEM 500, p. 1. 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. BEM 500, p. 3. 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/>. The Department determines HMP eligibility based on current monthly income. (MAGI-Based Income Methodologies (SPA 17-0100), eff. 11/01/2017, app. 03/13/2018); 42 CFR 435.603(h)

In this case, the Department introduced two bi-weekly paystubs from Employer which reflect that for pay date November 29, 2023, Petitioner earned \$ [REDACTED] in gross wages and that for pay date December 13, 2023, Petitioner earned \$ [REDACTED] in gross wages. (Exhibit A, pp. 27 – 28). The Department also provided an employment budget summary that reflected the following gross earnings, for MA purposes, for Petitioner as follows:

November 2023	\$ [REDACTED]
December 2023	[REDACTED]
January 2024	[REDACTED]
February 2024	[REDACTED]

(Exhibit A, pp. 29 – 30). However, it is unclear whether the amounts on the employment budget summary were MAGI-income or Petitioner's non-MAGI gross income as the Department testified that the income information on the employment budget summary are the budgets it generated as a result of an application Petitioner submitted through HealthCare.gov in December 2023.

For instance, while the employment budget summaries shows that Petitioner had income for December 2023 ongoing below the HMP limit when the 5% disregard is added, the Department failed to establish whether the income in the budget it presented was calculated in accordance with MAGI methodology. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that Petitioner's income exceeded the income limits for HMP MA coverage for November 2023 ongoing.

Petitioner did note during the hearing that her income has decreased further in recent months but there was no evidence that she reported any additional changes to the Department.

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 Petitioner's MA eligibility for November 2023 ongoing.

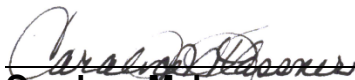
DECISION AND ORDER

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 eligibility for MA for November 2023 ongoing based on a calculation of her income in accordance with MAGI methodology;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive for November 2023 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
**MDHHS-Washtenaw-
Hearings@michigan.gov**

Interested Parties

Washtenaw County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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