



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 17, 2024
MOAHR Docket No.: 24-003455
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 May 8, 2024. Petitioner was present and self-represented. No one from the Department of Health and Human Services (Department) appeared to represent the Department.

ISSUE

Did the Department properly determine Petitioner'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 was an ongoing recipient of MA coverage under the Healthy Michigan Plan (HMP).
2. HMP coverage ended on March 31, 2024, after a redetermination established Petitioner had excess income for HMP coverage.
3. Petitioner is [REDACTED] years old, unmarried and files taxes claiming no dependents.
4. Petitioner is not blind, disabled or the caretaker of a minor child.
5. Petitioner is self-employed as a real estate agent and receives commission payments.

6. On January 5, 2024, Petitioner completed a redetermination and submitted it to the Department.
7. On February 26, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that Petitioner was not eligible for any MA coverage effective April 1, 2024, ongoing because of excess income. The Department listed Petitioner's countable annual income amount as [REDACTED] Exhibit 1, pp. 14-16.
8. On March 28, 2024, the Department received Petitioner's request for hearing disputing the Department's determination of her countable annual income. Exhibit 1, pp. 3-4.
9. On March 28, 2024, the Department received Petitioner's Form 1099-Nonemployee Compensation for 2023 listing compensation of [REDACTED] and a commission payment check stub from [REDACTED] dated February 13, 2024, in the amount of [REDACTED] Exhibit 1, p. 6, 20.
10. On April 5, 2024, the Department sent Petitioner a HCCDN indicating that Petitioner was only eligible for Plan First Family Planning (PFFP) limited coverage effective April 1, 2024 ongoing. Exhibit 1, p. 25.

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 disputed the Department's determination that Petitioner's countable annual income exceeded the limit for HMP coverage and she was only eligible for PFFP limited coverage.

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.

Based on Petitioner's age and that she is not the caretaker of a minor child, she is potentially eligible for HMP. HMP is a Modified Adjusted Gross Income (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.

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.* In determining countable income from self-employment, MAGI-related MA uses adjusted gross income (AGI) as declared on the federal tax return. BEM 502 (June 2024), p. 9.

Petitioner testified that in February, the Department asked for documentation of her income tax filing. At that time, Petitioner told the Department she had not yet filed her taxes and provided the Department with a summary for each month in 2023 listing her self-employment earnings and a copy of her 1099-NEC showing 2023 income of [REDACTED] from [REDACTED]. At the hearing, Petitioner testified that the 1099-NEC from [REDACTED] was her only income.

In the February 26, 2024 HCCDN, the Department listed Petitioner's countable annual income at [REDACTED] based on her commission payment from December 2023 [REDACTED] Exhibit 1, pp. 14-18. The February HCCDN indicated Petitioner was not eligible for any MA coverage. On or around March 28, 2024, the Department recalculated income, averaging the December 2023 commission payment [REDACTED] with the February 2024 commission payment [REDACTED] over 90 days, resulting in an average monthly income of [REDACTED] Exhibit 1, p.1, 22. Petitioner testified that she received a HCCDN dated April 5, 2024, indicating that she was only approved for PFFP coverage, effective April 1, 2024 ongoing. At the hearing, it was noted that the HCCDN included in the hearing packet approving PFFP coverage was not dated. Exhibit 1, p. 25.

The Department did not appear at the hearing and presented no evidence regarding the two different income calculations or why it calculated self-employment countable annual income using Petitioner's commission payments rather than Petitioner's AGI from her federal tax return. The Department did not act in accordance with Department policy when it calculated Petitioner's self-employment annual countable income.

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 denied Petitioner's eligibility for HMP coverage.

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 benefits for April 1, 2024 ongoing using Petitioner's AGI from her 2023 federal income tax return.
2. If Petitioner is eligible for benefits, provide Petitioner with the most beneficial MA coverage for each eligible month April 1, 2024 ongoing.
3. Notify Petitioner of its decision in writing.



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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
MI [REDACTED]