



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

Date Mailed: June 26, 2024  
MOAHR Docket No.: 24-003461  
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 May 30, 2024. Petitioner appeared and represented himself with the assistance of his niece, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Cindy Miller, Assistance Payments Worker.

**ISSUE**

Did the Department properly determine Petitioner's and his spouse's eligibility for Medicaid (MA) coverage effective April 1, 2024?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 21, 2023, the Department received a completed MA redetermination application from Petitioner for Petitioner and his wife, [REDACTED] [REDACTED] (Spouse). Petitioner reported that:
  - a. He is a joint tax filer with Spouse, and they claim one dependent, a [REDACTED] year old son,
  - b. He is the only member of the fiscal group with income, and
  - c. He earns \$ [REDACTED] gross per week.

(Exhibit A, pp. 14 – 20).

2. On December 28, 2023, the Department obtained a Work Number report<sup>1</sup> for Petitioner's earnings and used 90 days of Petitioner's income to determine Petitioner and Spouse's MA eligibility. (Exhibit A, pp. 13, 22 – 23).
3. On January 3, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) approving Petitioner and Spouse for full coverage MA, and Petitioner for Plan First Family Planning (PFFP) MA coverage, effective February 1, 2024. (Exhibit B, pp. 1 – 6).
4. On March 11, 2024, the Department sent Petitioner a HCCDN, changing Spouse's coverage to MA coverage with a monthly deductible of \$2,512 effective April 1, 2024. (Exhibit A, pp. 29 – 32).
5. Petitioner's coverage was also changed to MA coverage with a monthly deductible effective April 1, 2024.
6. On March 28, 2024, the Department received a request for hearing from Petitioner, disputing the Department's determination of Petitioner and Spouse's MA coverage and deductible for each. (Exhibit A, pp. 3 – 6).

### **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 a change in MA coverage for himself and Spouse from full coverage MA to MA coverage with a deductible of \$2,512 per month effective April 2024 ongoing.

Determining whether the Department properly determined an individual's MA eligibility requires consideration of all MA categories. Individuals may qualify under more than

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<sup>1</sup> The Work Number is a third-party database which receives income information directly from an applicant's employer and is accessed using the applicant's Social Security Number.

one MA category and Federal law gives them the right to the most beneficial category. BEM 105 (January 2024), p. 3. The most beneficial category is the one that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p. 3. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 3. 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) individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) MA. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105, p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1.

In this case, Petitioner was ■ years old and Spouse was ■ years old as of April 1, 2024 and they have one minor child dependent. (Exhibit A, pp. 15, 19). There was no evidence presented that either Petitioner or Spouse are blind, disabled, or pregnant. Therefore, they are both potentially eligible for PFFP, HMP, or, as the caretakers of a minor child, Group 2 Caretaker (G2C) MA coverage. HMP and PFFP are MAGI-related MA programs, with HMP providing full coverage and PFFP providing limited coverage (BEM 124, p. 1); and G2C is a non-MAGI-related MA category that may be subject to a deductible (BEM 135, p. 1 – 2). Of the three potential coverages, because HMP is full coverage and does not have a deductible, it is 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 joint taxes with Spouse and claimed one dependent. (Exhibit A, p. 19). Therefore, for HMP purposes, Petitioner and Spouse each have a household size of three. BEM 211 (October 2023), pp. 1 – 2.

Beginning in January 2024, the annual FPL for a household size of three was \$25,820. 89 FR 2961 (January 2024). The HMP income limit, 133% of the FPL, was \$34,340.60 annually, or \$2,861.72 per month. For MAGI-related plans, a 5% disregard is available to make 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. 5% of the FPL of \$25,820 is \$1,291. Therefore, the total income limit, with the disregard, was \$35,631.60, or \$2,969.30 per month.

To determine Petitioner's MAGI-income, the Department must calculate 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 tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest, if any, are added to the client's adjusted gross income (AGI) from the client's tax return. 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, Petitioner was initially notified in a January 3, 2024 HCCDN that he and Spouse were each approved for full-coverage MA for February 1, 2024 ongoing (Exhibit B). The Department explained that on December 28, 2023, it obtained a Work Number report of Petitioner's earnings and, because of notable variances in Petitioner's earnings each pay period, it used 90 days of Petitioner's bi-weekly pay amounts to project his monthly income for MA purposes. Specifically, the Department used the pay dates of October 5, October 19, November 2, November 16, November 30, December 14, and December 28, 2023 when it determined Petitioner's and Spouse's eligibility for MA coverage as approved on the January 2024 HCCDN. (Exhibit A, pp. 13, 23; Exhibit B, pp. 1 – 6). No evidence was introduced regarding whether the gross pay reported on the Work Number is the same as Petitioner's federal taxable wages; however, based on the gross pay reported for the October 5 to December 28, 2023 pay dates, Petitioner's income for the three month period was \$8,686.29 and when that total amount is divided by three to determine a projected monthly amount, Petitioner's income was \$2,895.43 per month. (Exhibit A, p. 23). Because the projected monthly household income was less than the total income limit for HMP, with the disregard, of \$2,969.30 per month, the Department properly determined Petitioner and Spouse were each eligible for full coverage HMP MA effective February 1, 2024. (Exhibit B, pp. 1 – 6).

On March 11, 2024, the Department issued a new HCCDN that changed Spouse from full coverage MA to MA coverage subject to a deductible of \$2,512 per month. (Exhibit A, pp. 29 – 32). It was Petitioner's understanding that his MA coverage was also changed to a deductible plan and the Department did not dispute that, though no HCCDN changing his coverage was introduced. The Department testified that it used the same income information from the Work Number it retrieved in December 2023 and that it did not request or obtain any updated income information when it made changes

to Petitioner and Spouse's MA coverage effective April 2024. Therefore, because the Department reported that there were no changes to the income information it used when it changed Petitioner's and Spouse's MA coverage, and the income information the Department used to determine Petitioner's and Spouse's MA coverage in January 2024 established that they were eligible for HMP, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it changed Petitioner and Spouse's MA coverage from HMP to G2C with a deductible.

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 changed Petitioner's and Spouse's MA coverage effective April 1, 2024.

### **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 MA for April 2024 ongoing based on a calculation of Petitioner's income in accordance with MAGI methodology;
2. If eligible, provide Petitioner and Spouse with the most beneficial MA coverage they are eligible to receive for April 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



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**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**  
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**Interested Parties**

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EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
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