



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

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Date Mailed: May 30, 2024  
MOAHR Docket No.: 24-003568  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 on May 1, 2023, via teleconference. Petitioner appeared and represented herself. Amber Gibson, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-18.

**ISSUE**

Did MDHHS properly determine Petitioner’s Medicaid (MA) eligibility?

**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 coverage.
2. On ██████████ 2023, Petitioner submitted a Redetermination for MA (Exhibit A, p. 5).
3. On December 20, 2023, MDHHS issued a Health Care Coverage Determination Notice stating that Petitioner was eligible for full-coverage MA from December 1, 2023 to December 31, 2023, and Spouse was eligible for full-coverage MA from December 1, 2023 to January 31, 2024 (Exhibit A, p. 12). The notice further indicated that Petitioner and Spouse were not eligible for MA from February 1, 2024 ongoing (Exhibit A, pp. 12-15).

4. On March 18, 2024, Petitioner filed a request for hearing to dispute MDHHS' determination regarding the household's 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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage because it determined that she was over the income limit for Healthy Michigan Plan (HMP) MA and terminated Spouse's MA coverage because he was over the asset limit for SSI-related MA.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

HMP MA provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (June 2020), p. 1. HMP is based on MAGI methodology. *Id.* To be eligible for HMP, an individual's income must be at or below 133% of the Federal Poverty Level (FPL). *Id.* Plan First MA is a MAGI-related limited coverage MA category that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

To evaluate a client's eligibility for MA, MDHHS must determine the MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5.

Regarding Petitioner's MA eligibility, no evidence was presented that Petitioner was blind, disabled, over age 65, under age 19, pregnant, the parent of minor children, or a Medicare recipient. Thus, Petitioner was only potentially eligible to receive HMP MA or Plan First MA. MDHHS determined that Petitioner had a group-size of two for the purposes of MAGI-related MA.

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned 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 IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. 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.<sup>1</sup> Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size, and can take into account any reasonably predictable increase or decrease in income.<sup>2</sup>

HMP income limits are based on 133% of the Federal Poverty Level (FPL).<sup>3</sup> RFT 246 (April 2014), p. 1. MDHHS also applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (April 2022), p. 5. Thus, HMP income limits are functionally 138% of FPL. The 5% disregard is the amount equal to 5% of the FPL, not a flat 5% disregard of income. BEM 500, p. 5; See *also*: Modified Adjusted Gross Income Related Eligibility Manual (May 2014), p. 15, *available at*: [https://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](https://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf).

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<sup>1</sup> See Healthcare.gov, Count Income & Household Size, available at <https://www.healthcare.gov/income-and-household-information/how-to-report/> (last accessed May 30, 2024).

<sup>2</sup> Michigan Medicaid State Plan, December 18, 2017 Submission, available at [https://www.michigan.gov/documents/mdhhs/MAGI-Based\\_Income\\_Methodologies\\_SPA\\_17-0100\\_-\\_Submission\\_615009\\_7.pdf](https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf) (last accessed May 30, 2024).

<sup>3</sup> Federal Poverty Level (FPL) refers to the Federal Poverty Guidelines published annually in the Federal Registrar. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

Effective January 17, 2024, 100% of FPL was \$20,440.00 annually for a two-person household residing in the contiguous 48 states. For Petitioner to be eligible for HMP MA in 2024, her net income would have to be at or below \$28,207.20 per year, which represents 138% of FPL. Persons with income less than 200% of FPL (applying the 5% disregard), which was \$40,880 annually in 2024 for a group-size of two, can qualify for Plan First MA.

According to the Health Care Coverage Determination Notice, MDHHS determined that Petitioner had a household countable annual income of \$15,252.00 (Exhibit A, p. 14). If this amount is correct, it is unclear why MDHHS determined that Petitioner was over the income limit for HMP MA. This income amount differed from the amount that MDHHS used to calculate Spouse's income. The reason for the discrepancy was not clear from the record. There was no evidence of a determination made regarding Plan First MA. Therefore, MDHHS has not satisfied its burden of showing that Petitioner was ineligible for MA based on her income.

Regarding Spouse's MA eligibility, MDHHS determined that he was potentially eligible for an SSI-related MA category based on the receipt of Retirement, Survivors, and Disability Insurance (RSDI) income. However, it terminated Spouse's coverage due to excess assets. At the hearing, MDHHS explained that this was because the household had two vehicles, and only one was exempt per policy. The value of the second vehicle added to the group's bank accounts made Spouse ineligible for SSI-related MA.

The SSI-related MA asset limit depends on the category of MA that the person is eligible to receive. BEM 400 (July 2023), p. 8. Asset eligibility exists when countable assets are less than or equal to the asset limit at least one day during the month being tested. BEM 400, p. 7. Assets include cash, personal property, and real property. BEM 400, pp. 1-2. Personal property includes currency, savings/checking accounts, vehicles, and other items. BEM 400, p. 2. MDHHS is required to verify the value of countable assets at application, redetermination, and when there is a reported change. BEM 400, p. 62. For many SSI-related MA categories, including Group 2 Aged, Blind, Disabled (G2S) MA, the asset limit for a group-size of two is \$3,000.00.

A vehicle is any registered or unregistered vehicle used for transportation. BEM 400, p. 40. Vehicles used for transportation include, but are not limited to, passenger cars, trucks, motorcycles, boats, snow mobiles, animal-drawn vehicles, and even animals. *Id.* For SSI-related MA, the value of a vehicle is its equity value. *Id.*, p. 41. Equity value is the fair market value minus the amount legally owed in a written lien provision. *Id.* MDHHS is required to exclude one motorized vehicle owned by the asset group. *Id.* If the group owns multiple motorized vehicles, it must employ the Employment Asset Exclusion first, and if any vehicles remain, exclude the one with the highest equity value. *Id.*

MDHHS stated at the hearing that it excluded one of the clients' vehicles, the one with the higher equity value. However, MDHHS did not adequately explain how it determined

which vehicle had the highest equity value or the equity value of each vehicle. No other documentation was provided regarding the client's assets.

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 MDHHS did not act in accordance with Department policy when it determined Petitioner and Spouse's MA eligibility.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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 from January 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial category of MA coverage that she is eligible to receive, from January 1, 2024 ongoing;
3. Redetermine Spouse's eligibility for MA from February 1, 2024 ongoing;
4. Provide Spouse with the most beneficial category of MA coverage that he is eligible to receive, from February 1, 2024 ongoing; and
5. Notify Petitioner of its decision in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/pt

**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**  
Amber Gibson  
Ingham County DHHS  
5303 South Cedar  
Lansing, MI 48911  
**MDHHS-Ingham-Hearings@michigan.gov**

**Interested Parties**  
Ingham County DHHS  
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**Via-First Class Mail:**

**Petitioner**  
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