



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 16, 2024
MOAHR Docket No.: 24-003791
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 6, 2024. Petitioner was present at the hearing and requested, on the record, that her husband [REDACTED] serve as her authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (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 was an ongoing recipient of MA coverage.
2. Petitioner is married, files taxes jointly, and claims one tax dependent.
3. Petitioner is employed, and her monthly earned income is [REDACTED]
4. Petitioner's husband (Spouse) and minor daughter (Minor Child) receive monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits in the gross amount of [REDACTED] and [REDACTED], respectively.
5. In connection with a redetermination completed by Petitioner, the Department sent a Health Care Coverage Determination Notice dated February 20, 2024 informing Petitioner that she was eligible for MA coverage under the Group 2 Caretaker

(G2C) program with a monthly deductible of \$1,728 effective March 1, 2024. (Exhibit A, pp. 6-10).

6. On March 25, 2024, the Department received Petitioner's request for hearing disputing the Department's determination regarding MA and Food Assistance Program (FAP). (Exhibit A, pp. 3-5).

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).

FOOD ASSISTANCE PROGRAM

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner indicated that there were no disputes regarding the Department's FAP determination. Petitioner did not wish to proceed with a FAP hearing. Therefore, Petitioner's request for hearing concerning FAP benefits is dismissed.

MEDICAL ASSISTANCE

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.

Upon reviewing Petitioner's eligibility criteria at redetermination, the Department concluded that Petitioner was eligible for MA coverage with a monthly deductible of \$1,728, effective March 1, 2024. Petitioner disputes this 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 Medicaid (PF-MA) 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 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was not age 65 or older, blind or disabled, under age 19, or pregnant or recently pregnant, Petitioner was potentially eligible for MA coverage under 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.

In this case, MDHHS concluded that Petitioner was not eligible for HMP due to having income that exceeded the applicable income limit for Petitioner's 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. In this case, Petitioner filed taxes jointly with Spouse and claimed one dependent. Therefore, for HMP purposes, Petitioner has a household size of three. BEM 211 (October 2023), pp. 1-2.

The annual FPL for a household size of three in 2024 is \$25,820. CFR 3424 (January 2024). 133% of the annual FPL in 2024 (the most current applicable FPL) for a household with three members is \$34,857. See <https://aspe.hhs.gov/poverty-guidelines>. a 5% disregard that increases the income limit by an amount equal to 5% of the FPL for the group size is available to make eligible those individuals who would otherwise not be eligible. BEM 500 (April 2022), p. 5. The 5% disregard would increase the HMP annual income limit for Petitioner to [REDACTED]. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED].

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.* 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 IRS tax form 1040, 1040-SR or 1040-NR at line 11. 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/> MDHHS considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to

show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). 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.

When the Department determined that Petitioner was over the income limit for HMP, it based Petitioner's income on earned and unearned income in her household. The Department noted earned income for Petitioner in the amount of [REDACTED] per month, and unearned income from Spouse and Minor Child in the amount of [REDACTED] and [REDACTED] respectively, from RSDI benefits. However, in compliance with BEM 503, (January 2023), p. 30, the Department should not have included the Minor Child's RSDI benefit in the household budget for MAGI purposes. Per department policy, a child/tax-dependent's RSDI is countable only if that child/tax-dependent is required to file taxes. BEM 503, p. 30. In order to be required to file taxes the total of a child or tax-dependent's RSDI and other income must be over the tax filing threshold for the year. Here, the Minor Child's monthly RSDI amount is [REDACTED] a month and [REDACTED] annually, which is below the tax filing threshold for 2023 of [REDACTED]. Therefore, the Minor Child's RSDI income should not be included in the MAGI calculation for HMP purposes, and the Department did not properly calculate the household income.

When utilizing Petitioner's earned income and Spouse's unearned income only, the monthly income for Petitioner's household is [REDACTED] per month, or [REDACTED] annually. With the 5% disregard, Petitioner's household income is not over the HMP elevated annual threshold of [REDACTED]. Therefore, the Department did not properly conclude that Petitioner was not eligible for HMP based on 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 determined that Petitioner was not eligible for MA coverage under the HMP program.

¹ <https://www.irs.gov/newsroom/heres-who-needs-to-file-a-tax-return-in-2024>

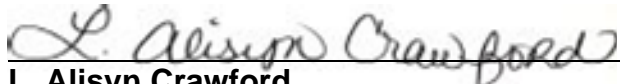
DECISION AND ORDER

Accordingly, Petitioner hearing request concerning FAP is **DISMISSED** and the Department's MA 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 MA eligibility effective March 1, 2024, ongoing based on countable income for a fiscal group of three and excluding Minor Child's RSDI income;
2. If eligible, provider Petitioner with the most beneficial MA coverage she is eligible to receive from March 1, 2023 ongoing; and
3. Notify Petitioner in writing of its decision.

LC/ml



L. Alisyn Crawford
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

Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]