



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.: 24-003821  
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 15, 2024. Petitioner was present and self-represented. Abdul Wahiz Mawri appeared as an Arabic interpreter for Petitioner. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Medicaid (MA) coverage for Petitioner's wife (Spouse)?

### **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 married to [REDACTED] (Spouse).
2. Spouse is not a United States citizen or a permanent resident. She is in the United States on a work visa, with an entry date of May 21, 2021.
3. On or around May 4, 2023, Spouse was granted temporary protected status (TPS) on a Form I-94, valid from March 4, 2023 to September 3, 2024. Exhibit A, pp. 15-16.
4. On November 3, 2023, Spouse applied for MA coverage and reported to the Department that she was pregnant. Exhibit A, p. 17.

5. On November 3, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that Spouse was eligible for full coverage MA effective November 1, 2023 ongoing. Exhibit A, pp. 22-24.
6. On March 27, 2024, the Department received Petitioner's request for hearing disputing Spouse's MA coverage after receiving conflicting information from the Department regarding Spouse's coverage. Exhibit A, pp. 3-4.

### **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 requested a hearing to dispute the Department's determination of Spouse's eligibility for MA coverage after receiving conflicting information about Spouse's coverage. Specifically, the Department testified that it approved Spouse for full coverage MA under Low Income Family (LIF) in a November 3, 2023 HCCDN but then advised Petitioner that Spouse was eligible for Emergency Services Only (ESO) MA. Although the Department contended that Petitioner's March 24, 2024 hearing request was untimely, because the Department never notified Petitioner in writing that Spouse was limited to ESO coverage, Petitioner's hearing request disputing Spouse's coverage is not untimely.

An individual is entitled to the most beneficial MA program for which they are eligible. BEM 105 (January 2024), p. 3. To be eligible for full coverage MA a person must be a United States citizen or a non-citizen admitted to the United States under a specific immigration status. BEM 225 (January 2024), p. 2. For MA coverage, an eligible non-citizen is limited to emergency services for the first five years in the United States. *Id.*, p. 8. Citizenship/non-citizen status is not an eligibility factor for ESO. However, the person must meet all other eligibility factors, including residency. *Id.*, p. 2. For pregnant or recently pregnant women with ESO, the Department offers prenatal and postpartum outpatient services through Maternity Outpatient Medical Services (MOMS). BEM 657 (July 2016), p. 1.

Here, Spouse is in the United States on a work visa with an I-94 TPS. She is not a United States citizen and her visa is not considered an acceptable immigration status for purposes of MA coverage. Further, Spouse has not been in the United States for 5 years. Thus, she is not eligible for full coverage MA.

However, citizenship/non-citizen status is not an eligibility factor for ESO programs. For pregnant individuals only eligible for ESO, MOMS program requirements include residency and financial eligibility. Financial eligibility exists when the fiscal group income is at or below 195% of the Federal Poverty Level (FPL). BEM 657, p. 2. It was undisputed that Spouse was a Michigan resident. Further, based on Petitioner's prior approval for LIF coverage which is limited to fiscal groups at or below 54% of the FPL, the fiscal group satisfies the income eligibility for MOMS. BEM 110 (April 2018), p. 1; BEM 657, p. 2.

Under MOMS, pregnant or recently pregnant ESO MA beneficiaries receive prenatal care along with medically necessary ambulatory postpartum care for 60 days after the pregnancy ends regardless of the reason. *Id.* Covered services include:

- Prenatal care and pregnancy-related care.
- Pharmaceuticals and prescription vitamins.
- Radiology and ultrasound.
- Professional fee for labor and delivery (including live birth, miscarriage, ectopic pregnancy and stillborn).
- Outpatient deliveries are not covered.
- Outpatient hospital care.
- Postpartum care through two calendar months after the pregnancy ends.
- Other pregnancy-related services approved by MSA.
- Labor and delivery and associated inpatient hospital costs are covered by Medicaid.

BEM 657, pp. 2-3.

Because Spouse was pregnant and met the eligibility requirements for ESO MA, she was eligible for MOMS. The Department testified that it sent Petitioner a HCCDN on April 24, 2024, indicating that Spouse was eligible for MOMS effective June 1, 2024 ongoing. Based on Spouse's immigration status and reporting her pregnancy to the Department at the time of her November 3, 2023 application, she was eligible for MOMS at the time of application, and MOMS would be the most beneficial MA program available to her. The Department erred when it failed to provide Spouse with MOMS coverage at the time of the November 2023 application. Exhibit A, pp. 18-21.

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 Spouse's eligibility for MA coverage from November 2023 through May 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. Convert Spouse's MA coverage to MOMS effective as of the November 3, 2023 application ongoing, and, when she is no longer eligible for MOMS based on post-pregnancy status, to ESO;
2. Allow Spouse's providers to bill for medical services rendered to Spouse from November 2023 ongoing; and
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**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228

**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]