



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: June 6, 2024
MOAHR Docket No.: 24-003949
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 9, 2024. Petitioner was represented by their Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Whitney Walker, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage effective March 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 [REDACTED] 2024, Petitioner submitted an application (application) for MA to the Department through MiBridges. (Exhibit A, pp. 7 – 12).
2. Petitioner is [REDACTED] years old, not married, and not a dependent on another's income tax return. (Exhibit A, p. 8).
3. Petitioner disclosed employment with Dr. [REDACTED] (Employer 1) on his application and reported his employment with Employer 1 to be 23 hours per week at the rate of \$[REDACTED] per hour and that he was paid bi-weekly. (Exhibit A, p. 10).

4. On March 22, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (notice), approving Petitioner for Plan First Family Planning (PFFP) coverage effective March 1, 2024. (Exhibit A, pp. 19 – 21).
5. On March 22, 2024, the Department also sent Petitioner a Health Care Coverage Supplemental Questionnaire (questionnaire). (Exhibit A, pp. 13 – 16).
6. On March 23, 2024, Petitioner completed the questionnaire and submitted it to the Department. (Exhibit A, pp. 13 – 16).
7. On the questionnaire, Petitioner reported his employment with Employer 1 to be 35 hours per bi-weekly period but did not provide his hourly rate. (Exhibit A, p. 14).
8. Petitioner also disclosed employment with Marshalls (Employer 2) on the questionnaire and reported his gross earnings to be \$ [REDACTED] for 5 hours per week. (Exhibit A, p. 14).
9. On April 4, 2024, the Department received Petitioner's request for hearing disputing the type of MA coverage he was approved for and requesting Healthy Michigan Plan (HMP) coverage. (Exhibit A, pp. 3 – 4).
10. On April 22, 2024, Petitioner submitted paystubs from Employer 1 to the Department for pay dates February 16, 2024, March 1, 2024, March 15, 2024, and March 29, 2024.

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 his approval for PFFP MA coverage effective March 1, 2024.

When an individual applies for MA coverage, they are not applying for a specific type of MA coverage, but for the MA category that is most beneficial for them. The most beneficial category is the one that results in eligibility, the least amount of excess

income, or the lowest cost share. BEM 105 (January 2024), p. 3. Determining whether the Department properly determined an individual's MA eligibility requires consideration of all MA categories. Individuals may qualify under more than one MA category and Federal law gives them the right to the most beneficial category. 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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 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 is ■ years old, not blind or disabled, and not a caretaker of a minor child. (Exhibit A, pp. 7 – 12). Petitioner's AHR testified that he is not pregnant. Therefore, Petitioner is potentially eligible for HMP or PFFP. PFFP is a limited coverage MAGI-related MA category (BEM 124, p. 1), while HMP provides broader coverage and is, therefore, 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 his own taxes and claimed no dependents. (Exhibit A, p. 8). Therefore, for HMP purposes, Petitioner has a household size of one. BEM 211 (October 2023), pp. 1 – 2.

Beginning in January 2024, the annual FPL for a household size of one was \$15,060. 89 FR 2961 (January 2024). The HMP income limit, 133% of the FPL, was \$20,029.80 annually, or \$1,669.15 per month. For MAGI-related plans, a 5% disregard is available to make those 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 \$15,060 is \$753. Therefore, the total income limit, with the disregard, was \$20,782.80, or \$1,731.90 per month.

In this case, the Department did not present a budget for Petitioner at the hearing but explained that MiBridges automatically approved Petitioner for PFFP based on the income information he reported on his application. Petitioner disclosed income from Employer 1 on his application and reported working an average of 23 hours per week at the rate of \$20 per hour and that he was paid bi-weekly. (Exhibit A, p. 10). The Department determines HMP eligibility based on current monthly income, and using Petitioner's self-attested income from his application, Petitioner was earning \$[REDACTED] in gross monthly income (23 hours per week x \$20 per hour x 2 weeks x 2 pay periods per month). \$[REDACTED] exceeds the HMP income limit of \$1,669.15 per month. Adding the 5% disregard, which increases the limit to \$1,731.90 per month, would not make Petitioner eligible either. Therefore, the Department properly determined that Petitioner was ineligible for HMP based on excess income.

Of additional note is that, 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). Neither the Department nor the AHR noted any adjustments to Petitioner's income that would be required by MAGI; but, were any appropriate, that would only serve to further increase Petitioner's MAGI-income.

Notwithstanding the foregoing, subsequent to the Department's notice, Petitioner submitted a completed questionnaire. (Exhibit A, pp. 13 – 16). On the questionnaire, Petitioner reported working fewer hours per week for Employer 1 but added income information for a second employer, Employer 2. (Exhibit A, p. 14). Petitioner reported earning weekly gross income of \$[REDACTED] from Employer 2. (Exhibit A, p. 14).

Although the self-attested income in the application and the questionnaire were inconsistent, on April 22, 2024, the Department received, and Petitioner verified, actual gross income from Employer 1 as follows:

February 16, 2024	\$ [REDACTED]
March 1, 2024	[REDACTED]
March 15, 2024	[REDACTED]
March 29, 2024	[REDACTED]

Petitioner's AHR testified that Petitioner's hours vary with Employer 1 but that Petitioner's income from Employer 2 was accurate through mid-April 2024, when Petitioner stopped working for Employer 2.

Based on the actual gross income for Employer 1, the lowest monthly income attributable to Employer 1 would be \$ [REDACTED]. Adding in Petitioner's income from Employer 2 of \$ [REDACTED] (\$ [REDACTED] x 4), for a total of \$ [REDACTED] confirms that Petitioner's total income was more than the income limit for HMP under any circumstances during the month of March 2024. Therefore, the Department acted in accordance with Department policy when it approved Petitioner for PFFP MA coverage.

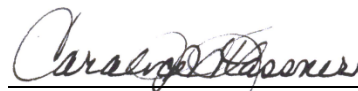
Individuals who have a change in their circumstances that may affect their ongoing eligibility for MA coverage, including eligibility for a more beneficial coverage, must report their changes to the Department promptly. BAM 105 (March 2024), p. 10 – 12; BAM 220 (November 2023).

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 acted in accordance with Department policy when it approved Petitioner for PFFP MA coverage.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CML/nr



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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Via-First Class Mail :

Authorized Hearing Rep.

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

Petitioner

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