



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: July 16, 2024  
MOAHR Docket No.: 24-005899  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 July 11, 2024, via conference line. Petitioner's wife [REDACTED] was present. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's group'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 and his group were ongoing MA recipients.
2. Petitioner's household consisted of himself, his wife, and three children. Petitioner also had a fourth child that lived outside of the home.
3. On April 22, 2024, the Department sent Petitioner a Verification Checklist requesting verification of Petitioner's wife's and daughter's income.
4. On April 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that one of his daughter's MA benefit case was closed for the failure to submit the requested verifications and that the remainder

of the household was approved for MA benefits subject to a deductible effective May 1, 2024, ongoing (Exhibit A, pp. 9-14).

5. On May 15, 2024, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 May 2024, Petitioner submitted verification of his wife's income. The Department determined that Petitioner's group members, with the exception of one child, were only eligible under MA programs subject to a deductible.

The Department concluded that Petitioner's group was not eligible for their respective full-coverage MA programs, including the Healthy Michigan Plan program, MiChild or the U-19 categories, because the household income exceeded the applicable income limit for the group size. HMP, MiChild and U-19 use a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household for a tax filer, who is not claimed as a tax dependent, consists of: (i) the individual; (ii) the individual's spouse; and (iii) and tax dependents. BEM 211, pp. 1-2. The household for an individual who is a tax dependent of someone else consists of the household of the tax filer claiming the individual as tax dependent. BEM 211, p. 2.

At the hearing the Department testified that Petitioner and his group members were considered to have a group size of five which consisted of Petitioner, his wife and the three children that lived in the household. The Department stated that although Petitioner does have a fourth child, that child was not included in the group as she lives outside of the household. Petitioner's wife testified that when filing taxes, she and her husband claimed all four children.

Per policy, all of the group members in Petitioner's household have a group size of 6. Therefore, the Department did not act in accordance with policy when it determined Petitioner's group's household size. Thus, the Department failed to establish that it acted in accordance with policy when it determined Petitioner's group's MA eligibility.

The Department also closed one of Petitioner's child's MA benefit case for the failure to submit verification of her income. On April 22, 2024, the Department sent Petitioner a VCL requesting, in part, verification of his daughter's income. Proofs were due by May 2, 2024.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

At the hearing, the Department testified that Petitioner did not return verification of his daughter's income by the due date, and as a result, her MA benefit case closed. Petitioner's wife testified at the hearing that the requested proofs were submitted by the VCL due date.

The Department did not present Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. In the absence of such evidence, the Department failed to establish that Petitioner did not timely return verification of his daughter's income. Therefore, the Department failed to establish that it properly closed Petitioner's daughter's MA benefit case.

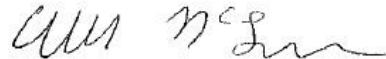
**DECISION AND ORDER**

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 determined Petitioner's group's MA eligibility.

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 group's MA eligibility as of May 1, 2024, ongoing;
2. If Petitioner's group is eligible for MA benefits, provide coverage they are entitled to receive; and
3. Notify Petitioner of its decision in writing.



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**Ellen McLemore**  
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**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED], MI [REDACTED]