



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 3, 2024
MOAHR Docket No.: 24-000381
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 5, 2023, from Lansing, Michigan. The Petitioner was represented by [REDACTED] [REDACTED] Social Worker. [REDACTED] [REDACTED] the Petitioner, was present. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-39, and Petitioner's additional documentation was admitted as Exhibit 1, pp. 1-10.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 September [REDACTED] 2023, Petitioner applied for MA and reported her employment with Comfort Care Home Care, 12-24 hours or less in two weeks as well as employment with Home Instead, no average hours listed. Petitioner reported that in the past year she started working fewer hours and that her income in the previous three months was not consistent with the current month's income. Petitioner also reported her spouse was in the home and he was employed with [REDACTED] [REDACTED] [REDACTED] [REDACTED] 36-40 hours per week. Petitioner indicated they filed taxes jointly as spouses. (Exhibit A, pp. 5-20).

2. On October ■ 2023, Petitioner submitted the Health Care Coverage Supplemental Questionnaire. Petitioner listed her spouse as a household member. Petitioner reported her employment was 12-34 hours biweekly and her husband's employment was 36-40 hours weekly. Petitioner explained that her job is not stable due to the limitation of her health condition and sometimes she can get 12-36 hours in two weeks. Petitioner provided paycheck stubs for her husband. (Exhibit A, pp. 21-28)
3. On January ■ 2024, Petitioner filed a hearing request contesting the Department's intended determination to deny her MA coverage. (Exhibit A, pp. 3-4)
4. On January ■ 2024, a Health Care Coverage Determination Notice was issued to Petitioner indicating she was not eligible for full coverage MA because she is eligible for the program on another case. (Exhibit A, pp. 36-39)
5. On January ■ 2024, the Department verified Petitioner's income with a report from The Work Number. (Exhibit A, pp. 29-35)

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.

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

categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Plan First MA is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124, July 1, 2023, p. 1.

Petitioner was only potentially eligible for full coverage MA under the Healthy Michigan Plan (MA-HMP) category. For example, based on the information reported on the application and supplemental questionnaire, Petitioner was not under age 19, aged, blind, disabled, pregnant, or a parent or caretaker relative a dependent child. (Exhibit A, pp. 5-24; APS Testimony)

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not 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, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

BEM 211 addresses MA group composition:

TAX FILERS AND NON- TAX FILERS

The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual.
- Individual's spouse.
- Tax dependents.

The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual and, if living with the individual:

- Individual's spouse.
- The individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student.

- If the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student).

BEM 211, October 1, 2023.

The 2023 FPL for the 48 contiguous states and the District of Columbia for a group size of two is an annual income of \$19,720. Accordingly, 133% of FPL is \$26,227.60 for a group size of two. (See also Exhibit A, p. 38). Divided by 12, this would equate to \$2,185.63 per month.

In this case, the January [REDACTED] 2024, Health Care Coverage Determination Notice indicated Petitioner was not eligible for full coverage MA because she is eligible for the program on another case. (Exhibit A, pp. 36-39). No evidence was presented showing Petitioner was active for MA on another case.

The Department asserted that there was a different reason for the denial, specifically that Petitioner exceeded the income limit for MA-HMP. (Exhibit A, p. 1; APS Testimony). The Department acknowledged that it did not include Petitioner's husband on the case until the pre-hearing conference. (Exhibit A, p. 1; APS Testimony). Petitioner reported her husband was in the home and that they file taxes jointly as spouses. (Exhibit A, pp. 5-20). Pursuant to the BEM 211 policy, Petitioner's husband should have been included in the MA group with Petitioner. The APS Supervisor indicated the Department determined Petitioner's annual income was \$[REDACTED] (Exhibit, p. 36; APS Testimony). This amount of annual income would be under the income limit for a group size of two, which is \$26,227.60. Accordingly, it appears the Department was still considering the income limit for a household size of one (\$19,391.40) when the January 17, 2024 determination was made if the correct denial reason was income in excess of program limits. (See Exhibit A, p. 38). However, it is not clear if the annual income of \$[REDACTED] was just for Petitioner, or if this also included her husband's 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA. The reason listed on the denial notice indicated that Petitioner was eligible for MA on another case. There was no evidence presented to show that Petitioner is eligible for MA on another case. The Department indicated that Petitioner exceeds the income limit for MA-HMP. However, it does not appear that the Department has properly calculated the household income and determined Petitioner's eligibility for MA based on a household size of two.

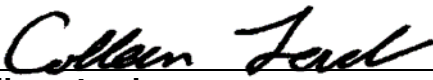
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for MA for the September ■ 2023 application in accordance with Department policy.

CL/dm



Colleen Lack
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
MDHHS-Oakland-6303-
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SchaeferM

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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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Authorized Hearing Rep.
[REDACTED]
[REDACTED]
[REDACTED]