



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN DPA
DIRECTOR

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Date Mailed: April 17, 2024
MOAHR Docket No.: 24-001881
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 3, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Shan'e Roundtree.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.

4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. On January 30, 2024, the Department received Petitioner's completed Redetermination.
7. Petitioner is not married and has no dependents for the 2023 tax year due to an agreement with the father of her daughter.
8. On February 1, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that effective March 1, 2024, she was not eligible for MA benefits because she was not under age 21, not pregnant, had excess income, was not the caretaker of a minor child, not over 65, not blind, and not disabled. Petitioner's daughter was listed as being eligible for full coverage MA benefits under the MIChild program.
9. On February 19, 2024, the Department received Petitioner's request for hearing disputing the Department's determination of eligibility and included pay stubs to reflect her decreased hours of work.
10. The Department reviewed Petitioner's eligibility a second time using her reduced hours of work as shown on the Equifax Work Number Report and again determined she was ineligible for benefits based upon excess income.

CONCLUSIONS OF LAW

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 et seq; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 et seq.

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once

every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

Upon reviewing Petitioner's eligibility criteria at redetermination and after her request for hearing, MDHHS concluded that Petitioner was ineligible for MA coverage. Petitioner disputes this decision.

MA 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.

MAGI-RELATED PROGRAMS: HMP

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 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 files taxes but due to an arrangement with the father of her child is not claiming her daughter as a dependent for 2023, the most recent tax year filings, as noted on her redetermination.

Therefore, Petitioner has a group size of one. 133% of the annual FPL in 2024 (the most current applicable FPL) for a household with one member is \$20,029.80. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$20,029.80 or \$1,669.15 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2020), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/>> (accessed July 20, 2023). AGI is found on IRS Tax Form 1040 at line 11. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <https://www.healthcare.gov/glossary/adjusted-gross-income-agi/>> (accessed July 20, 2023). 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, childcare, or retirement savings. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (accessed July 20, 2023). In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.* Net operating losses from self-employment or a business are counted against other forms of income. 42 CFR 435.603(e); Centers for Medicare & Medicaid Services, *MAGI 2.0: Building MAGI Knowledge Part 2: Income Counting* <<https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/part-2-income.pdf>> (accessed March 29, 2024).

Petitioner has earned income. The Department initially determined her eligibility based on the 30-days prior to the Redetermination which includes the pay dates of January 5, 2024 and January 19, 2024. Petitioner's gross income totaled \$[REDACTED]. No evidence was presented regarding deductions to Petitioner's income for health coverage, childcare, retirement accounts, or student loans. Therefore, the Department correctly determined that Petitioner was over the income limit for HMP.

The Department reevaluated Petitioner's eligibility after receiving her hearing request noting decreased hours and considered the pay dates of January 19, 2024 and February 2, 2024. Petitioner's gross income was \$[REDACTED]. Again, there was no evidence of deductions and Petitioner's income exceeded the limit for HMP.

Even if Petitioner was claiming her daughter as a dependent, and her group size was listed as two rather than one, the income limit would be \$27,185.20 or \$2,265.43 per month and Petitioner is still not eligible for full coverage MA benefits under the HMP category. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

MAGI-RELATED PROGRAMS: PLAN FIRST

PF-MA is also 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 (not emergency services only (ESO)) residing in Michigan whose fiscal group's net income does not exceed 195% of the federal poverty level (FPL) and meets the other eligibility criteria. BEM 124 (July 2023), p. 1. There are no age or gender restrictions to PF-MA eligibility. BEM 124, p. 1. PF is an MA program limited to family planning services only. <https://www.michigan.gov/mdhhs/assistance-programs/healthcare/adults/planfirst>.

Like HMP, determination of an individual's PF-MA eligibility requires consideration of the fiscal group's size and income. BEM 124, pp. 1-2. Again, Petitioner has a group size of one. BEM 211, pp. 1-2. 195% of the annual FPL in 2024 (the most current applicable FPL) for a household with one member is \$29,367.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PF-MA, Petitioner's annual income cannot exceed \$29,367.00 or \$2,447.25 per month.

The same rules apply for determining countable income for PF as are used for HMP. As seen above, Petitioner's MAGI exceeds the PF limit for a group size of one.

SSI-Related MA

At the hearing Petitioner noted that she is blind in one eye which is what allows her to have reduced hours and use Family Medical Leave Act time off of work and she wondered whether this might allow her to receive a disability related MA benefit. Generally, a person who receives Supplemental Security Income (SSI) or Retirement Survivors Disability Insurance (RSDI) benefits is automatically considered disabled for MA purposes. BEM 260 (January 2023), p. 1-2. Disability is also established by the Social Security Administration (SSA) for 403 individuals, early widows, and Disabled Adult Children beneficiaries. BEM 260, p. 1. Disability can also be established by the Disability Determination Service (DDS) after a request is made for state issued disability-related MA or State Disability Assistance (SDA) benefits. BEM 260, p. 3. However, an SSA determination of not disabled takes precedence over the DDS decision. BEM 260, p. 3-4. For blindness, a person is determined blind when either the visual acuity in the better eye can only be corrected to 20/200 or less, or the widest diameter of the visual field in the better eye is limited to an angle of 20 degrees or less. BEM 260, p. 10. No evidence was presented related to the degrees or ranges of Petitioner's visual ability nor was there evidence of a finding of a disability by DDS or SSA; therefore, at this time, she is not eligible for an SSI-related MA benefit based upon blindness.

Group 2 Caregivers (G2C)

G2C is a Group 2 MA category that provides MA eligibility after meeting a monthly deductible. BEM 105 (January 2024), p. 1; Finally, the Department concluded that Petitioner was not eligible for G2C because she was not the caretaker of a minor child. However, the Department's own evidence conflicts with this statement. In the HCCDN issued on February 1, 2024, the Department determined that Petitioner's daughter was eligible for full coverage MA benefits under the MICHild program. To be included on Petitioner's MA case, her daughter must live with her. Furthermore, to be eligible for MICHild, Petitioner's daughter must be under age 19, a minor. BEM 130 (January 2024, p. 1.) Pursuant to policy, to be eligible for G2C, a person must be one of several things including a parent of a dependent child. BEM 135 (October 2016), p. 1. Policy also notes that a dependent child can live with both parents and both parents may be considered caretaker relatives. *Id.* Furthermore, policy provides that a dependent child is a child that has been born, that meets FIP eligibility factors including BEM 223, 225, and 270, the child is using resident MA policy found in BEM 220, and the child is under age 18 or age 18 and in school full time, in addition to being a FIP or SSI recipient, an MA application, an active MA deductible client, an MA beneficiary, or a MICHild beneficiary. BEM 135, p. 3. A review of these nonfinancial factors shows that Petitioner's circumstances satisfy these eligibility requirements. Therefore, the Department improperly failed to determine Petitioner's eligibility for G2C.

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 MA eligibility for G2C.

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 MA G2C eligibility effective March 2024;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.



AMTM/cc

Amanda M. T. Marler
Administrative Law Judge

