



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 21, 2024  
MOAHR Docket No.: 24-002331  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

**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 11, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner'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 was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
2. Petitioner was recently pregnant and at the time of the hearing, her son was [REDACTED] old. Petitioner informed the Department of her pregnancy in December 2023 and her son's birth in [REDACTED] 2024.
3. Petitioner is married and files taxes jointly with her husband claims one tax dependent.
4. Petitioner does not currently work. Her husband (Spouse) is employed by [REDACTED] Inc. (Employer).
5. In connection with a redetermination completed by Petitioner in February 2024, the Department sent Petitioner a Health Care Coverage Determination Notice

(HCCDN) dated February 7, 2024 informing Petitioner that effective March 1, 2024 ongoing, she was approved for Medicaid with a monthly deductible of \$3,223 due to her Spouse's income. (Exhibit A, p. 10).

6. On March 1, 2024, Petitioner sent a request for hearing to the Department disputing its determination regarding Petitioner's MA coverage. (Exhibit A, pp. 5-6).

### **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.

Upon reviewing Petitioner's eligibility criteria at redetermination, the Department testified that that Petitioner was eligible for MA coverage under the Group 2 Pregnant Women (G2P) program with a \$3,223 monthly deductible. Petitioner disputes this 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.

In this case, the Department concluded that Petitioner was not eligible for HMP due to having income that exceeded the applicable income limit for Petitioner's group size. Petitioner's pregnancy also made her ineligible for HMP coverage. BEM 137 (January 2024), p. 1. While the Department properly concluded that Petitioner was ineligible for HMP, it was not clear from the evidence of record nor the Department's testimony whether considered Petitioner for the Pregnant Women (PW) MA program, particularly where the February 7, 2024 HCCDN concluded that Petitioner was ineligible for PW

because she was receiving HMP but also stated that she was ineligible for HMP because she was pregnant. Because Petitioner was pregnant or recently pregnant, Petitioner was potentially eligible for MA coverage under the PW program. BEM 125 (April 2022), p. 1. PW MA is a MAGI-related MA category that provides MA full coverage to a woman while she is pregnant, the month her pregnancy ends, and during the twelve calendar postpartum months following the month her pregnancy ended regardless of the reason (for example, live birth, miscarriage, stillborn). BEM 125, p. 1. MA coverage cannot be terminated during pregnancy or postpartum period unless the woman requests the closure, moves out of state, or dies. Additionally, all eligibility factors, financial and nonfinancial factors, must be met in the calendar month being tested. The client must have income under the MAGI methodology at or below 195% of the federal poverty level (FPL) applicable to the individual's group size and the household composition follows tax filing rules found in BEM 211. BEM 125, pp. 1-2.

As noted previously, an individual's group size for MAGI purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes jointly with her Spouse and claims 1 tax dependent. Therefore, for PW purposes, Petitioner has a household size of three. BEM 211 (October 2023), pp. 1-2. Further, even before the birth of her child, Petitioner had a three-person group due to her pregnancy. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf). 195% of the annual FPL in 2024 for a household with three members is \$50,349. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for PW, Petitioner's annual income cannot exceed [REDACTED]

To determine financial eligibility under PW, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), 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 adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040, 1040-SR and 1040-NR at line 11. 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 considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at <https://www.michigan.gov/mdhhs/->

[/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](#).

Here, the Department based Petitioner's income on earned income from Petitioner's Spouse. In connection with her redetermination, Petitioner provided the Department with two paystubs to provide verification of Spouse's income. Spouse is paid bi-weekly from Employer. The paystubs indicated the following: (1) [REDACTED] for a pay date of December 28, 2023, and (2) [REDACTED] for a pay date of January 11, 2024. (Exhibit A, pp. 18-19). The Department provided a budget which indicated income of [REDACTED] however, at the hearing, the Department stated that the monthly income attributable to Petitioner from Spouse's income was [REDACTED]. In any regard, if either amount were accurate, Petitioner would still be potentially income-eligible for full MA coverage under the PW program.

Furthermore, policy provides that a woman who is eligible for and receiving coverage under another MA category is automatically income eligible for PW through the twelfth calendar month after the month her pregnancy end. BEM 125 (April 2022), p. 2. Because Petitioner was receiving MA under HMP at the time she notified the Department of her pregnancy, an income test was not required.

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 that Petitioner was only eligible for MA coverage under G2P based on excess income.

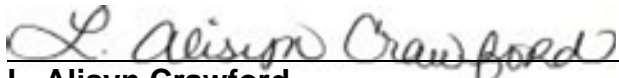
### **DECISION AND ORDER**

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 Petitioner's HMP coverage to PW for March 1, 2024 ongoing and any time she was eligible for PW prior to March 1, 2024;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive from March 1, 2024 ongoing; and
3. Notify Petitioner in writing of its decision.

LC/ml



**L. Alisyn Crawford**  
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**

Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209

**MDHHS-Wayne-41-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED]  
MI [REDACTED]