



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 20, 2024  
MOAHR Docket No.: 24-003961  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 May 9, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her son, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Layana Jefferson, Hearing Facilitator. Rafat Arman served as Bengali interpreter.

### **ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits?

### **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 or around [REDACTED] 2024, Petitioner submitted an application for MA benefits. (Exhibit A, pp. 7-12)
  - a. On the application, Petitioner reported that she is not employed and that she has not had any change in employment in the last 30 days.
2. During an interview with the Department on February 8, 2024, Petitioner initially indicated that she was not employed but later stated that she had employment with [REDACTED]. It was unclear to the Department from the information obtained during the interview whether Petitioner was employed and receiving earned income.

3. On or around February 8, 2024, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of her income by February 20, 2024. The Department included a Verification of Employment DHS-38, that was to be completed by Petitioner's employer and returned to the Department by February 20, 2024. (Exhibit A, pp. 13-15)
4. On or around February 20, 2024, Petitioner returned the Verification of Employment completed by her employer at [REDACTED]. Petitioner's employer indicated that Petitioner's status was employed and there was no end date or last paycheck date identified. The employer also submitted paystubs with the Verification of Employment that reflected pay dates of January 5, 2024, January 12, 2024, January 19, 2024, January 26, 2024, February 2, 2024, and February 9, 2024. (Exhibit A, pp. 13-21)
5. On or around March 25, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) denying her MA application and advising Petitioner that effective February 1, 2024, she was ineligible for MA under the full coverage Healthy Michigan Plan (HMP) and limited coverage Plan First (PF) MA program because her countable income exceeds the income limit. (Exhibit A, pp. 27-30)
6. On or around April 8, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner indicated that she does not have any earned income. (Exhibit A, pp.4-5)
7. During the hearing, Petitioner confirmed: that she is [REDACTED] years old; that she has not been determined disabled; that she is not enrolled in Medicare; that she is not the parent or caretaker of a minor child; that she files a tax return; that she is not claiming any dependents on her tax return and that she is not claimed as a dependent on another individual's tax return. Therefore, Petitioner's household size for MA purposes is one.

### **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.

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 (July 2021), p. 1; BEM 137 (June 2020), 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, because Petitioner was not age 65 or older, blind or disabled, under age 19, the parent or caretaker of a minor child, or pregnant or recently pregnant, the Department properly determined that Petitioner was potentially only eligible for MA coverage under full coverage HMP or the limited coverage Plan First Medicaid category.

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.

The Department representative testified that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her 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 and dependents. Petitioner files taxes and does not claim any dependents. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). Therefore, for HMP purposes, Petitioner has a household size of one. Because Petitioner's application was submitted prior to April 2024, the FPL for the 2023 year is to be applied. The FPL for a group size of one in 2023 is \$14,580. 133% of the annual FPL in 2023, for a household with one member is \$19,391.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED] and thus, the monthly income cannot exceed [REDACTED] as she was a new applicant. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$20,120, or \$1,676.67, monthly.

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 (April 2022), p. 3. MAGI

is based on Internal Revenue Service rules and relies on federal tax information. *Id.* 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. 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/>. When determining financial eligibility of new applicants for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. 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).

In this case, the Department representative testified that on or around February 8, 2024, an interview was conducted with Petitioner, during which she initially reported that she was not employed. However, later in the interview, Petitioner reported employment with [REDACTED]. Because the information provided to the Department by Petitioner during the interview was unclear, in order to obtain accurate information regarding Petitioner's employment, the Department issued the VCL and Petitioner was instructed to have her employer complete and return the Verification of Employment. The Department representative testified that based on the information submitted by Petitioner's employer including the completed Verification of Employment, the paystubs, as well as additional verification of employment obtained by the Department from the Work Number, the Department concluded that as of the application date, Petitioner was still employed and earning income. The Department representative testified that Petitioner's employer submitted paystubs verifying her earnings through February 9, 2024.

The Department representative testified that Petitioner's monthly MAGI from employment with [REDACTED] was [REDACTED]. The Department representative testified that it relied on the income information provided on each of the paystubs with the pay dates of January 5, 2024, January 12, 2024, January 19, 2024, January 26, 2024, February 2, 2024, and February 9, 2024. (Exhibit A, pp. 13-21). The Department representative testified that it considered Petitioner's weekly pay stubs in the 30 days prior to her application date. It was unclear upon review, however, which exact pay amounts were considered, as the total of the paystubs identified by the Department does not result in MAGI of [REDACTED].

At the hearing, Petitioner testified that she is no longer employed and that she received her last paycheck in February 2024. Petitioner testified that at the time she submitted her application, she was no longer working and the pay stubs she received in February 2024 were her final paystubs. The Department reviewed a current Work Number during the hearing and confirmed that Petitioner's last pay from [REDACTED] was received

in February 2024. Because, based on the above policy, the Department is to determine eligibility using current monthly income for the application month and not income received in the 30 days prior to the application, and because the Department did not establish that Petitioner's MAGI for the application month was [REDACTED] the Department failed to establish that Petitioner's income exceeded the income limit for HMP eligibility.

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 denied Petitioner's [REDACTED] 2024, MA application.


### **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. Reprocess Petitioner's [REDACTED] 2024, MA application to determine MA eligibility for Petitioner under the most beneficial category for February 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner under the most beneficial category, that she was entitled to receive but did not from February 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
Dawn Tromontine  
Macomb County DHHS Sterling Heights Dist.  
41227 Mound Rd.  
Sterling Heights, MI 48314  
**MDHHS-Macomb-36-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
MI [REDACTED]