



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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 31, 2024  
MOAHR Docket No.: 24-004171  
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 15, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist. Loaiy Eliwat served as Arabic interpreter.

### **ISSUE**

Did the Department properly process Petitioner's 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 requesting MA benefits for himself and his wife. (Exhibit A, pp. 11-16)
2. On the application, Petitioner reported that he is employed with [REDACTED]
3. On or around March 25, 2024, the Department sent Petitioner a Verification checklist (VCL), instructing him to submit proof of his wife's alien status, and proof of his income by April 4, 2024. (Exhibit A, pp. 17-18)
4. On or around March 29, 2024, Petitioner submitted a copy of the front side of his wife's legal permanent resident card, as well as his 2023 1040 tax return, schedule C, schedule 1, and schedule SE. (Exhibit A, pp. 19-25)

5. On or around April 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective March 1, 2024, his wife was ineligible for MA benefits because he failed to verify requested information. The Notice further advised Petitioner that he was approved for MA benefits for April 1, 2024, through April 30, 2024, but effective May 1, 2024, was ineligible for MA due to excess income. (Exhibit A, pp. 28-32)
  - a. The Notice did not address Petitioner's MA eligibility for the application month of March 2024, and it was unknown whether he was approved or denied coverage for the month of March 2024.
6. On or around April 11, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his MA application. (Exhibit A, pp. 33-35)

### **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.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to the MA program. During the hearing, it was established that at issue was MA benefits for Petitioner and his wife. The Department representative testified that Petitioner's wife was determined ineligible for MA due to a failure to submit requested verification of her alien status. The Department representative testified that Petitioner was determined ineligible for MA benefits effective May 1, 2024, because his income exceeded the limit for the program. It is noted that although the April 8, 2024, Notice advises Petitioner that he was approved for MA for the month of April 2024, and denied ongoing coverage effective May 1, 2024, the Notice fails to identify Petitioner's eligibility for the month of March 2024. Eligibility for each individual will be addressed separately below.

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 and his wife were not age 65 or older, blind or disabled, under age 19, the parents or caretakers of a minor child, or pregnant or recently pregnant, the Department properly determined that Petitioner and his wife were potentially only eligible for MA coverage under full coverage HMP or the limited coverage Plan First Medicaid category.

### **MA for Petitioner's Wife**

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), 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. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has lapsed. BAM 130, pp. 8-9.

At the hearing, the Department representative acknowledged that Petitioner had timely submitted a copy of the front side of his wife's legal permanent resident card. However, the Department representative testified that because Petitioner failed to submit a copy of the front side and the back side of the legal permanent resident card, the Department determined that he failed to verify requested information and initiated the denial of MA benefits for Petitioner's wife effective March 1, 2024. There was no evidence that the Department informed Petitioner that he was required to submit a copy of both the front and back of the legal permanent resident card. Additionally, the evidence indicated that although it was after the April 8, 2024, Notice, Petitioner resubmitted a complete front and back copy of his wife's legal permanent resident card. Upon review, it was established that Petitioner made a reasonable effort to obtain and submit the requested verification of alien status for his wife and did not indicate a refusal to submit the

information. Therefore, the Department's denial of MA benefits for Petitioner's wife on the basis that Petitioner failed to verify requested information was not proper.

### **MA for Petitioner**

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 effective May 1, 2024, because his income exceeded the applicable income limit for his group size. It was unclear why Petitioner was determined income eligible for MA for the month of April 2024, and not May 1, 2024, ongoing, however.

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 jointly with his wife and they do 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 and his wife have a household size of two. The FPL for a group size of two in 2024 is \$20,440. 133% of the annual FPL in 2024, for a household with two members is \$27,185.20. 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 they were new applicants. 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 [REDACTED], or [REDACTED], 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).

The Department representative did not identify Petitioner's household MAGI. It was established that Petitioner submitted paystubs documenting his employment with [REDACTED]. Specifically, Petitioner was paid [REDACTED] on February 23, 2024, [REDACTED] on March 1, 2024, [REDACTED] on March 8, 2024, and [REDACTED] on March 19, 2024. However, the Department representative testified that it was also continuing to include income of [REDACTED] from an employer named Workforce Executive. Petitioner denied that he was employed with this employer and testified that he only had current earnings from [REDACTED]. While the Department indicated that the income was verified through an employer statement that Petitioner was employed 80 hours biweekly and paid [REDACTED] with each paycheck, the Department conceded that it did not know and could not explain where or how the income verification was obtained as there was no record of a verification of employment on file or any collateral contact with the employer. Upon review of the evidence presented, the Department failed to establish that Petitioner's household had MAGI in excess of the income limit for his two-person household size. Thus, the Department did not properly conclude that Petitioner was not eligible for MA benefits under the HMP. Because the status of Petitioner's MA eligibility for the application month of March 2024 was unknown, the Department will be ordered to reprocess Petitioner's MA eligibility for March 1, 2024, ongoing.

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 processed 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 and his wife under the most beneficial category for March 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner and his wife under the most beneficial category, that they were entitled to receive but did not from March 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**  
Tracy Felder  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]