



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 23, 2024
MOAHR Docket No.: 24-004818
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 22, 2024, via conference line. Petitioner was present with her husband, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor. Also present were Arabic interpreters Peter Chona and Samar Arafa.

ISSUE

Did the Department properly close Petitioner's household's Medical Assistance (MA) benefit cases?

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 and her group were ongoing MA recipients.
2. Petitioner's groups consisted of herself, her husband and her two minor children.
3. In March 2024, Petitioner was due for a redetermination related to the group's MA benefits.
4. On April [REDACTED] 2024, Petitioner submitted an application for MA benefits to complete the MA review (Exhibit A, pp. 31).
5. On April [REDACTED] 2024, Petitioner submitted verification of her checking accounts (Exhibit A, pp. 32-37).

6. On April [REDACTED] 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her group's MA benefit cases were closing effective May 1, 2024, ongoing, due to excess assets (Exhibit A, pp. 40-43).
7. On April [REDACTED] 2024, Petitioner submitted a request for hearing disputing the Department's actions.

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's group were ongoing MA recipients. Petitioner completed a review of her group's MA eligibility. As a part of the review, Petitioner submitted verification of her and her husband's checking accounts, which had liquid assets totaling in excess of \$200,000. As a result, the Department closed Petitioner's group's MA benefit cases due to excess assets.

Children over age 1 and under age 19 who are not eligible for MA for foster care children are potentially eligible for MA under three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (October 2023), p. 1, 3-4; BEM 130 (January 2024), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. The U19 program is a Modified Adjusted Gross Income (MAGI)-related Group 1 MA category, meaning that it provides full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1. The U19 and MiChild MA programs do not have an asset limit. BEM 131, p. 2 and BEM 130, p. 2.

The Department confirmed that Petitioner's children were both U.S. citizens, and therefore, eligible for both the U19 and MiChild MA programs. Per policy, U19 and MiChild do not have assets limits. Therefore, the Department failed to establish that Petitioner's children's MA benefit cases were properly closed.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (July 2017), p. 2. However, citizenship/alien status is not an eligibility factor for ESO MA. BEM 225, p. 2. MA coverage is limited to ESO for any: (i) persons with certain alien statuses or U.S. entry dates; (ii)

persons refusing to provide citizenship/alien status information on the application; and (iii) person unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. The following individuals meet the qualified alien status to receive full coverage MA benefits: (i) qualified military aliens; (ii) qualified spouses and unmarried dependent children of military aliens; (iii) holder of one of the following immigration statuses: permanent resident alien with class code RE, AS, SI or SQ on the I-551 (former refugee or asylee); refugee admitted under INA Section 207; granted asylum under INA Section 208; Cuban/Haitian entrants; Amerasians under P.L. 100-202; and victims of trafficking under P.L. 106-386 of 2000. BEM 225, pp. 6-7. Individuals with the following immigration status are limited to ESO services for the first five years in the U.S.: (i) an alien who has been battered or subjected to extreme cruelty in the United States or whose child or parent has been battered or subjected to extreme cruelty in the United States; (ii) an alien whose deportation (removal) is being withheld under INA Sections 241(b)(3) or 243(h); and (iii) permanent resident aliens with a class code on the I-551 other than RE, AM or AS. BEM 225, p. 8. The following individuals are only eligible for ESO MA: (i) aliens paroled into the U.S. for less than one year under INA Section 212(d)(5); (ii) non-immigrant--an alien temporarily in the U.S. for a specific purpose (for example, student, tourist); and (iii) persons who do not meet any of the MA citizenship/alien statuses above. This includes, for example, undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS. BEM 225, p. 10. Neither BEM 225, nor BEM 400 set forth an asset limit for ESO MA.

Petitioner's husband confirmed at the hearing that he and his wife were not U.S. citizens and that they entered the U.S. in January 2020. Therefore, Petitioner and her husband are eligible for ESO only. Per policy, there is no specified asset limit for ESO MA. Therefore, the Department failed to establish that Petitioner and her husband's eligibility for ESO MA was properly determined.

DECISION AND ORDER

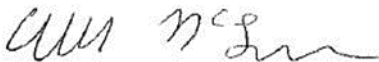
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's group's MA benefit cases.

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 group's MA eligibility as of May 1, 2024, ongoing;
2. If Petitioner and her group are eligible for MA, provide coverage they are entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/dm



Ellen McLemore
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-
Hearings@michigan.gov

SchaeferM

EQADHearings

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]