



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: October 11, 2024  
MOAHR Docket No.: 24-004931  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

**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 hearing was held by telephone on September 11, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's and her daughter [REDACTED] (Daughter) Medicaid (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. On February 20, 2024, the Department received a completed MA redetermination application from Petitioner for Petitioner and her children, including Daughter, a [REDACTED] year old son, and Petitioner's two minor children.
2. Petitioner was [REDACTED] years old, and Daughter was [REDACTED] years old, and both are unmarried. Petitioner reported no changes in household income and did not provide information regarding her tax filing status or dependents. (Exhibit A, pp. 8 – 14).
3. On March 13, 2024, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner that approved Petitioner and Daughter for full

coverage MA for March 2024 and for Plan First MA coverage effective April 1, 2024 ongoing. (Exhibit A, pp. 35 – 36).

4. On April 22, 2024, the Department received a request for hearing from Petitioner disputing the Department's calculation of Petitioner's and Daughter's income and their approval for Plan First. (Exhibit A, pp. 3 – 5).

### **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.

Petitioner requested a hearing to dispute the Department's calculation of her and Daughter's income and their approval for Plan First only.

Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2. All MA category options must be considered in order for the Petitioner's right of choice to be meaningful. BEM 105, p. 2.

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, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1. Individuals who do not qualify for one of the foregoing coverages may qualify for Plan First Family Planning (PFFP), which is a limited coverage MA category. BEM 124 (July 2023), p. 1.

#### **Petitioner**

In this case, Petitioner was ■ years old and single and reported she was the caretaker of two minor children and not blind, disabled, or pregnant. (Exhibit A, pp. 8 – 14). Therefore, Petitioner is potentially eligible for under full-coverage HMP, Group 2 Caretaker (G2C), and/or PFFP MA coverage.

HMP and PFFP are MAGI-related MA programs, with HMP providing full coverage and PFFP (BEM 124, p. 1) providing limited coverage. G2C is not SSI-related or MAGI-related MA and is a Group 2 program for parents and other caretaker relatives of dependent children, and subject to an individual monthly deductible for each eligible recipient when the group has excess income. BEM 135 (October 2015), p. 1 – 2. While Petitioner may qualify for coverage under three MA programs, because HMP offers full MA coverage and does not have a deductible, it is a more beneficial coverage for Petitioner than the others.

To qualify for health care coverage under HMP, the individual must:

- be 19 – 64 years of age,
- not qualify for or be enrolled in Medicare,
- not qualify for or be enrolled in other Medicaid programs,
- not be pregnant at the time of application,
- meet Michigan residency requirements,
- meet Medicaid citizenship requirements, and
- have income at or below 133 percent Federal Poverty Level (FPL).

BEM 137, p. 1.

An individual is eligible for HMP if their 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. Here, Petitioner did not provide information regarding her tax filing status or dependents and as a non-tax filer, her household was herself and her two minor children. Therefore, for HMP purposes, Petitioner has a household size of three. BEM 211 (October 2023), pp. 1 – 2.

Beginning in January 2024, the annual FPL for a household size of three is \$25,820. 89 Fed Reg 2961 (January 2024). The HMP income limit, 133% of the FPL, for a household size of three is \$34,340.60 annually, or \$██████████ per month. For HMP, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500, p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5. 5% of the FPL of \$25,820 is \$1,291. Therefore, the total income limit, with the disregard, was \$35,631.60, or \$2,969.30 per month.

To determine Petitioner's MAGI-income, the Department must calculate the countable income of the fiscal group. BEM 500, p. 1. To determine financial eligibility for MAGI-related MA, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, pp. 3 – 4. MAGI is based on Internal Revenue Service rules and relies on federal tax information from current income sources. BEM 500, pp. 3 – 4; see also 42 CFR 435.603(h)(1),(2).

The Department uses current monthly income, and reasonably predictable changes in income, to calculate a client's MAGI-income. (MAGI-Based Income Methodologies

(SPA 17-0100), eff. 11/01/2017, app. 03/13/2018)<sup>1</sup>; 42 CFR 435.603(h). MAGI-income is calculated for each income earner in the household by using the “federal taxable wages” reported on earner’s paystubs or, if federal taxable wages are not reported on the paystub, by using “gross income” minus amounts deducted by the employer for child care, health coverage, and retirement plans. A client’s tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest, if any, are added to the client’s adjusted gross income (AGI) from the client’s tax return. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

On the redetermination application, Petitioner’s income was listed as \$800 per week from employment. (Exhibit A, p. 10). The Department testified that it obtained a Work Number report through Equifax, which reported Petitioner had current income from employment of \$[REDACTED] per week, which the Department budgeted as \$3,800 per month. (Exhibit A, pp. 16 – 17, 22). The Department testified that it also obtained a Consolidated Income Inquiry (CI) on March 13, 2024 which reported that Petitioner received spousal support income of \$[REDACTED] per month. While it was unclear whether the Department budgeted Petitioner’s spousal support income, because Petitioner’s employment income alone was more than the \$[REDACTED] per month HMP limit including the disregard, the Department properly determined Petitioner was ineligible for HMP.

Because Petitioner has two minor children who live in the home, she may be eligible for G2C, which is the next most beneficial MA coverage available to her based on her circumstances. Here, the Department testified that it did not consider Petitioner’s eligibility for MA under G2C. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to determine if Petitioner was eligible for MA under G2C.

### **Daughter**

In this case, Daughter was [REDACTED] years old and single and Petitioner reported she was not blind, disabled, pregnant, or the caretaker of any minor children. (Exhibit A, pp. 8 – 14). Therefore, Daughter is potentially eligible for under full-coverage HMP and/or PFFP MA coverage.

As a [REDACTED]-year-old single individual with no dependents, who is not claimed as a tax dependent, regardless of Daughter’s tax filing status, she was a fiscal group of one for MAGI-related MA purposes. BEM 211 (October 2023), pp. 1 – 2. The monthly income limit for HMP eligibility for a group of one is \$1,731.90, when the additional 5% disregard is added. The monthly income limit for PFFP eligibility for a group of one is \$2,510, when the additional 5% disregard is added.

In this case, on the redetermination application, Daughter’s income was listed as \$[REDACTED] bi-weekly from employment (Employer 1), unemployment of \$[REDACTED] bi-weekly,

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<sup>1</sup> [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf?rev=223500fb0cf44dd78fd995e635fbaec8&hash=6A39DE5525422009644221A5E57513D7](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf?rev=223500fb0cf44dd78fd995e635fbaec8&hash=6A39DE5525422009644221A5E57513D7), p. 7.

irregular employment income of \$120 (Employer 2), and irregular child support income of \$24.14. (Exhibit A, p. 10). Petitioner did not report any changes to Daughter's income on the redetermination application and the Department relied on that information. (Exhibit A, pp. 19, 21). The Department introduced a MAGI eligibility determination that showed that it budgeted \$1,695 per month for Daughter's bi-weekly income from Employer 1, \$240 per month for Daughter's irregular employment income from Employer 2, and no income for unemployment or child support. (Exhibit A, p. 29). Therefore, the total income budgeted for Daughter by the Department was \$1,935 per month, or \$23,220 per year, which is more than the income limit for HMP. (Exhibit A, p. 36). However, the Department did not clearly explain how it determined Daughter's income from Employer 1 was \$1,695 per month based on biweekly income of \$ [REDACTED] or how it determined her irregular income from Employer 2 was \$240 per month. Therefore, while the Department properly relied on the income information provided by Petitioner on the completed redetermination application, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Daughter's income for HMP eligibility.

In her request for hearing, Petitioner asserted that Daughter has no income, which is different than the information Petitioner provided on the redetermination application. If Daughter's income has changed or stopped, Petitioner must report that change to the Department, which may impact Daughter's future eligibility. BAM (March 2024), p. 10.

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 failed to determine if Petitioner was eligible for MA under G2C and when it calculated Daughter's income for HMP.

### **DECISION AND ORDER**

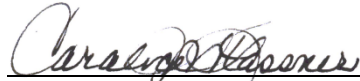
Accordingly, the Department's decision is **REVERSED**.

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 and Daughter's individual eligibility for MA for April 2024 ongoing;
2. If eligible, provide Petitioner and Daughter with the most beneficial MA coverage they are eligible to receive for April 2024 ongoing; and

3. Notify Petitioner of its decision in writing.

CML/nr



**Caralyce M. Lassner**  
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**  
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**Interested Parties**

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**Via-First Class Mail :**

**Petitioner**

  
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