



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



Date Mailed: August 27, 2024
MOAHR Docket No.: 24-006622
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 August 5, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kendra Woodard, Assistance Payments Worker and Latora Giles, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Medical Assistance (MA) eligibility for Petitioner's husband?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In May 2024, Petitioner's Food Assistance Program (FAP) case was due for a redetermination review.
2. Petitioner's husband [REDACTED] was an ongoing recipient of MA under the Healthy Michigan Plan (HMP).
3. The Department asserted that Petitioner's FAP redetermination triggered a review of Mr. [REDACTED] MA eligibility.
4. On May 22, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective July 1, 2024, Mr. [REDACTED] MA case would be closed because he was not under age 21, pregnant, or a caretaker

of a minor child and that he is not over 65 (aged), blind, or disabled. The Notice indicated that the household size was 4 and that total countable annual income for the household was [REDACTED] (Exhibit A, pp. 28-30)

5. Although not reflected on the Notice, the Department asserted that Mr. [REDACTED] was ineligible for HMP benefits because he had excess income. (Exhibit A, pp. 25-26)

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, the hearing was requested to dispute the Department's determination that Petitioner's husband [REDACTED] was ineligible for MA benefits effective July 1, 2024.

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. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. Group 2 categories are considered a limited benefit because a deductible is possible. BEM 105, p. 1.

At the hearing, the Department representative testified that Petitioner's husband was previously approved for MA under the HMP; however, after processing the redetermination for the household's FAP benefits, the Department determined that based

on the household income, Petitioner was no longer eligible for HMP or any other MA program.

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.

Because Petitioner's husband is 47 years old and not enrolled in Medicare, he is potentially eligible for full coverage MA under the HMP. 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 testified that she and her husband file taxes jointly and claim three children as tax dependents. The evidence presented indicated that the Department improperly applied a household size for HMP purposes of four, instead of the correct household size of five.

Based on the evidence presented at the hearing, Petitioner's household size for HMP purposes is five. 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 five. The FPL for a group size of five in 2024 is \$36,580. 133% of the annual FPL in 2024, for a household with five members is \$48,651.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$48,651.40, and thus, the monthly income cannot exceed \$4,054.28, as he was a current beneficiary. 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 \$50,480.40, or \$4,206.70, 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 current beneficiaries of MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. Additionally, the Department is to consider reasonably predictable changes in income. For individuals who are seasonal workers who know that they will only work for some

portion of the year, the Department will consider the reasonably predictable future income decrease within the upcoming 12 months. The seasonal income reported will be averaged to arrive at a monthly amount, which is then added to any other non-fluctuating income. 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.

The Department's Hearing Summary indicates that the household annual income was [REDACTED]. However, a review of the May 22, 2024, Notice reflects a total household annual income of [REDACTED]. At the hearing, the Department representative attempted to explain the income amounts relied upon in the MAGI determination. While it was confirmed that Petitioner receives monthly SSI of [REDACTED] and monthly RSDI or Social Security of [REDACTED], the Department was unable to explain the earned income amounts that were considered in the MAGI determination. The Department initially testified that Petitioner had earned income from her own employment in the amount of [REDACTED] but was unable to explain this income amount and whether this was monthly income or weekly income. Similarly, the Department representative testified that Petitioner's husband had monthly self-employment income of [REDACTED] but again, was unable to identify the income amounts relied upon in that calculation. The Department representative testified that self-employment income and expense statements were submitted but the months for which were unknown. Petitioner testified that as of July 2024, which is the month in which her husband's MA case closed, she no longer had any earned income. Petitioner also testified that she submitted a tax return to the Department showing that the household income was less than [REDACTED]. The Department's testimony regarding the household income was inconsistent. Therefore, the Department failed to establish that Petitioner's household income was greater than the income limit. Additionally, the Department failed to apply the correct income limit, as the Department considered an incorrect household size. When redetermining Mr. [REDACTED] MA eligibility under the HMP, the Department is to apply a household size of five and not four.

At the hearing, the Department representative testified that Petitioner's husband was also ineligible for MA under the limited coverage Group 2 Caretaker Relative (G2C) program that is subject to a monthly deductible. The Department's testimony was conflicting and inconsistent as to the G2C eligibility determination. Although MA coverage under the HMP is more beneficial than the limited coverage G2C, the Department is to consider Mr. [REDACTED] eligibility under all MA categories.

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 closed Petitioner's husband's MA case effective July 1, 2024.


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. Reinstate Petitioner's husband's MA case effective July 1, 2024, and redetermine his MA eligibility under the most beneficial category for July 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner's husband under the most beneficial category, that he was entitled to receive but did not from July 1, 2024, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml


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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

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Interested Parties

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Via First Class Mail:

Petitioner

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