



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: September 24, 2024  
MOAHR Docket No.: 24-007736  
Agency No.: ██████████  
Petitioner: ██████████

**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 28, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Tara Rogier, Assistance Payments Worker and Cathy Burr, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly determine Petitioner's eligibility 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 ██████████ 2024, Petitioner submitted an application for MA benefits. (Exhibit A, pp. 19-24)
  - a. On the application, Petitioner reported that she is employed an average of 25 hours weekly, that she is paid approximately ██████████ per month, and that she is paid once every two weeks.
2. In connection with the application, the Department obtained verification of Petitioner's employment with ██████████ through the Work Number, which showed that on May 10, 2024, Petitioner was paid gross earnings of ██████████ and on May 24, 2024, Petitioner was paid gross earnings of ██████████ (Exhibit A, pp. 10-15)

3. On or around May 24, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective May 1, 2024, Petitioner was approved for MA under the limited coverage Plan First (PF) MA program. (Exhibit A, pp. 5-7)
4. Although not reflected on the Notice, the Department asserted that Petitioner was ineligible for MA under the full coverage Healthy Michigan Plan (HMP) category due to excess income.
5. On or around May 30, 2024, Petitioner submitted a change report, requesting that the Department transfer her MA benefits from PF MA to a full coverage MA category. (Exhibit A, pp. 25-26)
6. On or around July 9, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the MA program. (Exhibit A, pp. 3-4)
7. Following her request for hearing, Petitioner submitted to the Department updated verification of her earnings, specifically, a check stub dated July 5, 2024, reflecting gross earnings of [REDACTED] with a \$66.04 pretax deduction for retirement contributions, and a check stub dated July 19, 2024, with gross pay of [REDACTED] and a pretax deduction of \$65.41 for retirement contributions. (Exhibit B)
8. The Department asserted that Petitioner was still ineligible for HMP due to excess income based on the paystub submitted reflecting income for the month of July 2024.
9. 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.

In this case, Petitioner disputed the Department's determination that she was ineligible for full coverage MA benefits due to excess income.

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 is under age 64, and not 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. The FPL for a group size of one in 2024 is \$15,060. 133% of the annual FPL in 2024, for a household with one member is \$20,029.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, as a new applicant, Petitioner's annual income cannot exceed \$20,029.80, and thus, the monthly income cannot exceed \$1,669.15. 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 \$20,632.20, or \$1,719.35, 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). 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](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

At the hearing, the Department representative testified that Petitioner's MAGI from employment was calculated using the information obtained from the Work Number, specifically considering Petitioner's gross earnings of [REDACTED] paid on May 10, 2024, and [REDACTED] paid on May 24, 2024. The Department asserted that Petitioner's income totaled [REDACTED]. Petitioner confirmed that the paystubs relied upon were accurate at the time of the application, although she testified that her work hours and income have decreased due to her school schedule. There was no evidence that Petitioner's employment was seasonal or temporary. However, although federal taxable earnings are not identified, a review of the Work Number shows that Petitioner contributes a portion of her pay towards retirement/401k. For the most recent pay period identified on the Work Number for the pay date of May 24, 2024, a contribution of \$60.49 is noted. Therefore, because the Department is to reduce gross income by the amount of retirement savings, the Department should not have used the full \$864.02 from the May 24, 2024, pay date and instead should have used the gross amount of [REDACTED] reduced by \$60.49, for MAGI earnings of [REDACTED]. The Work Number does not identify the retirement contribution for

the May 10, 2024, pay date; however, the evidence suggests that Petitioner contributed to retirement savings with each paycheck, as the deduction continued to appear on the July 2024 pay stubs presented for review. Upon thorough review, and even with gross income of [REDACTED] from the May 10, 2024, pay date being used, in consideration of the reduced earnings of [REDACTED] for the May 24, 2024, pay date, Petitioner's countable MAGI is [REDACTED] and lower than the income limit of \$1,719.35, monthly, when the 5% disregard is applied. Therefore, the evidence established that the Department did not properly calculate Petitioner's MAGI and did not establish that Petitioner had excess income for full coverage HMP benefits. Thus, the Department did not properly conclude that Petitioner was ineligible for full coverage MA benefits under the HMP and that she was only eligible for limited coverage MA under the Plan First Medicaid (PF-MA) category.

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 determined Petitioner's MA eligibility.


### **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. Provide Petitioner with MA coverage under the Healthy Michigan Plan from May 1, 2024, ongoing; and
2. 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**

Trista Waishkey  
Washtenaw County DHHS  
22 Center Street  
Ypsilanti, MI 48198  
**MDHHS-Washtenaw-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

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