



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: September 17, 2024
MOAHR Docket No.: 24-007994
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 22, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist. Christian Diaz served as Spanish interpreter.

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. Petitioner was an ongoing recipient of MA benefits.
2. The Department asserted that in connection with a mass update, a Health Care Coverage Determination Notice was issued to Petitioner on June 20, 2024, advising her that effective July 1, 2024, she was ineligible for MA due to excess income.
3. On or around July 1, 2024, Petitioner requested a hearing disputing the Department's closure of her MA case.

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 closure of her MA case 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.

At the hearing, the Department representative testified that Petitioner had previously been approved for and receiving MA benefits under the full coverage Low Income Families (LIF) category. It was unclear however how Petitioner was determined eligible for LIF, as the Department asserted that she had a group size of one and was not the parent or caretaker of any minor children. The Department's testimony also suggested that Petitioner previously had been approved for HMP. It was unknown which type of MA program Petitioner was approved for in the months prior to the case closure effective July 1, 2024.

However, based on the testimony provided by Petitioner, it was established that 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, Petitioner is potentially 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.

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. Family size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). The Department testified that the group size applicable to Petitioner's circumstance is 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 current beneficiary, 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 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.

At the hearing, the Department testified that Petitioner had monthly income of [REDACTED] which it testified consisted of Petitioner's earnings from employment at the [REDACTED]. The Department did not identify the exact pay amounts or pay dates used in the monthly

MAGI determination, however. Additionally, the Department representative testified that the only income on file for Petitioner is from 2023 and that no recent income information was requested in connection with the current review. Furthermore, the Department applied a household size of one; however, Petitioner testified that although she is married, she lives alone and files a tax return separately from her husband. Petitioner also testified that she claims two nephews as tax dependents. Thus, the Department shall determine the appropriate group size applicable to Petitioner's circumstance based on her tax filing status and dependents in order to apply the correct income limit. Upon review, the because the Department was unable to explain the exact MAGI determination and because the Department failed to consider Petitioner's current monthly income and failed to establish that it applied the correct group size, it follows that the Department failed to show that Petitioner's income exceeded the limit for MA eligibility.

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 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 MA case effective July 1, 2024, and redetermine her MA eligibility under the most beneficial category for July 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA benefits that she was entitled to receive but did not, if any, 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

Tracy Felder

Wayne-Southwest-DHHS

2524 Clark Street

Detroit, MI 48209

MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties

BSC4

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MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
MI [REDACTED]