



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 12, 2019
MAHS Docket No.: 19-001870
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 10, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse (hereinafter, "Spouse"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Tamara Jackson, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid 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. As of December 2018, Spouse received ongoing gross Retirement, Survivors, Disability Insurance (RSDI) of \$2,136/month. Exhibit A, p. 14.
2. As of January 2019, Petitioner was an ongoing recipient of Medicaid through the Healthy Michigan Plan (HMP) category.
3. As of January 2019, Petitioner received ongoing employment income.
4. On February 8, 2019, MDHHS terminated Petitioner's Medicaid eligibility effective March 2019.
5. As of March 2019, Petitioner was between the ages of 19-64 years, not pregnant, not disabled, not a caretaker to minor children, and married.

6. On [REDACTED], 2019, Petitioner requested a hearing to dispute the termination of Medicaid.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of Medicaid benefits. A Health Care Coverage Determination Notice (HCCDN) (Exhibit A, pp. 17-19) dated February 22, 2019, stated that Petitioner was ineligible for Medicaid.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of the disputed benefit month, Petitioner was between the ages of 19-64 years, not pregnant, not disabled, and not a caretaker to minor children. Petitioner's circumstances render her only potentially eligible for Medicaid through HMP. MDHHS alleged that Petitioner was ineligible for HMP due to excess income.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

HMP is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined.

MAGIM (May 28, 2014), p. 14. It is based on federal tax rules for determining adjusted gross income. *Id.* It eliminates asset tests and special deductions or disregards. *Id.* Every individual is evaluated for eligibility based on MAGI rules. *Id.*

For individuals who have been determined financially-eligible for MA using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603 (h)(2). In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3).

As of the disputed benefit month, Petitioner was married. For all MAGI-related adults, a spouse is a group member. BEM 211 (January 2016) pp. 1-2. Thus, Spouse's income is countable in the eligibility determination for HMP.

MDHHS presented no budgets verifying how Petitioner's HMP eligibility was calculated. MDHHS indicated that Petitioner's HMP eligibility was simple enough to determine by factoring only Spouse's RSDI.

For Medicaid, countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503 (January 2019) p. 29. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. *Id.* For all other months countable RSDI is the gross amount for the month being tested. *Id.*

The present case concerns Petitioner's Medicaid eligibility for March 2019; thus, RSDI from 2018 is countable. In 2018, Spouse received ongoing gross RSDI of \$2,136. Multiplying the income by 12 results in a countable annual income of \$25,632.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2019 federal poverty level is \$16,910 for a two-person group residing in Michigan.¹ For Petitioner to be eligible for HMP, countable income would have to fall at or below \$22,490.30. Without factoring Petitioner's income, the group's income exceeds HMP limits.

Petitioner testified that MDHHS should have given her additional time to find private health insurance before terminating her Medicaid eligibility. MDHHS issued notice of Medicaid termination to Petitioner in compliance with policy requiring issuance of timely notice (see BAM (January 2019) p. 12).

¹ <https://aspe.hhs.gov/2019-poverty-guidelines>

Petitioner may be curious why MDHHS now terminated her Medicaid eligibility due to excess income when Spouse received comparable RSDI for the past several years. The change in Petitioner's eligibility appears related to a change in policy beginning or near October 2018. Policy before October 2018 disregarded 100%, 50%, or 15%, depending on the circumstances, of a group member's RSDI. BEM 503 (July 2017) p. 31. Current MDHHS policy allows for no disregard. Thus, the change in policy appears to have directly affected Petitioner's eligibility.

Based on the evidence, Petitioner's group's income exceeds HMP limits. As Petitioner is ineligible for other Medicaid categories, MDHHS properly terminated Petitioner's Medicaid eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's Medicaid eligibility effective March 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Lapeer-Hearings
D. Smith
EQAD
BSC2-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]