



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: June 24, 2019  
MOAHR Docket No.: 19-003102  
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 June 13, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Crystal Hackney, supervisor.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for Medicaid (MA) dated February 27, 2019.

### **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 27, 2019, Petitioner applied for Medicaid. Petitioner reported receipt of ongoing employment income. Exhibit A, pp. 6-10.
2. As of February 27, 2019, Petitioner was between the ages of 19-64 years, not disabled, not pregnant, and not a caretaker to minor children.
3. As of February 27, 2019, Petitioner received the following gross pays in the last 30 days: \$ [REDACTED] on February 2, 2019; \$ [REDACTED] on February 9, 2019; \$ [REDACTED] on February 16, 2019; and \$ [REDACTED] on February 23, 2019. Exhibit A, pp. 19-20.

4. On March 18, 2019, MDHHS denied Petitioner's MA eligibility. Medicaid through Healthy Michigan Plan (HMP) was denied due to excess income and a calculated income for Petitioner of \$ [REDACTED]
5. On May 22, 2019, Petitioner requested a hearing to dispute the denial of Medicaid.<sup>1</sup>

### **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 denial of Medicaid coverage. A Health Care Coverage Determination Notice (HCCDN) dated March 18, 2019, stated that Petitioner was ineligible for various MA categories. Exhibit A, pp. 21-24.

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 hearing date, Petitioner was between the ages of 19-64 years, not disabled, not pregnant, and not a caretaker to minor children. As a [REDACTED] year-old, Petitioner is unlikely to be claimed as a tax dependent by someone else. Given the evidence, Petitioner is only potentially eligible for Medicaid through HMP as a group size of one. The HCCDN stated that Petitioner was ineligible for HMP due to excess income.

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<sup>1</sup> Petitioner also requested a hearing on March 25, 2019. Petitioner failed to participate in the hearing which led to Petitioner's hearing request being dismissed.

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.*

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.<sup>2</sup> 42 CFR 435.603 (e). Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size. 42 CFR 435.603 (h)(1). In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2), 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).

In calculating Petitioner's income-eligibility for HMP, MDHHS relied on Petitioner's recent gross employment income. Adding Petitioner's 30 days of gross income from the application date (\$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED] results in a total monthly income of \$ [REDACTED]. Multiplying the income by 12 results in an annual income of \$ [REDACTED].

Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.<sup>3</sup> Petitioner's pay documentation dated February 28, 2019 (Exhibit A, p. 15) listed \$ [REDACTED] in 401k payments and \$ [REDACTED] in union dues were reduced from Petitioner's pay. For purposes of calculating MAGI, union dues will be considered an allowable deduction as an unreimbursed business expense. Multiplying Petitioner's combined weekly 401k

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<sup>2</sup> Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska native. No known exceptions are applicable to the present case.

<sup>3</sup> <https://www.investopedia.com/terms/a/agi.asp>

contribution and union dues of \$ [REDACTED] by 4 (to convert into a total monthly deduction) and then by 12 (to convert to annual deductions) results in a total annual deduction of \$ [REDACTED]. Subtracting the deduction from Petitioner's income results in a countable income of \$ [REDACTED].

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2019 federal poverty level is \$12,490 for a one-person group.<sup>4</sup> For Petitioner to be eligible for HMP, countable income would have to fall at or below \$16,611.70 (\$1,384.30/month).<sup>5</sup>

Petitioner testimony referenced that his income fell below the \$31,320/year figure cited by MDHHS on the notice of application denial. Though Petitioner's countable income was below the \$ [REDACTED] amount calculated by MDHHS, Petitioner was still not eligible for HMP due to excess income.

Based on the evidence, Petitioner's income exceeds HMP limits. Thus, MDHHS properly determined Petitioner to be ineligible for HMP due to excess income. With Petitioner not eligible for Medicaid under any other categories, MDHHS properly denied Petitioner's application for Medicaid. Petitioner is encouraged to reapply for Medicaid if or when his income reduces or ends.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's Medicaid application dated February 27, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



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**Christian Gardocki**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

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<sup>4</sup> <https://aspe.hhs.gov/2019-poverty-guidelines>

<sup>5</sup> The HCCDN stated that Petitioner's income could not exceed \$16,146.20 for a non-pregnant person between the ages of 19-64. The income limit appeared to be based on 2018 federal poverty levels. Because Petitioner's eligibility for 2019 was determined, the above analysis considers 2019 federal poverty levels.

**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

**DHHS**

Linda Gooden  
MDHHS-Oakland-6303-Hearings

**Petitioner**

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[REDACTED] MI [REDACTED]

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