



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.: 19-004663
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 Bobbi Ingram, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Medicaid (MA).

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 April 19, 2019, Petitioner incurred medical expenses of \$ [REDACTED] and \$ [REDACTED] Exhibit A, pp. 10-11.
2. On April 19, 2019 Petitioner applied for Medicaid. Petitioner reported receipt of ongoing employment for [REDACTED] hours/week and an hourly wage of \$ [REDACTED] Exhibit A, pp. 12-13.
3. On an unspecified date, Petitioner reported to MDHHS that he received \$ [REDACTED] week in employment income. Exhibit A, p. 14.

4. As of April 19, 2019, Petitioner was between the ages of 19-64 years, not disabled, not pregnant, could not be claimed as a tax dependent by someone else, and not a caretaker to minor children.
5. As of May 3, 2019, Petitioner received the following gross employment pays in the last 30 days: \$[REDACTED] on March 29, 2019; \$[REDACTED] on April 3, 2019, \$[REDACTED] on April 12, 2019, \$[REDACTED] on April 19, 2019, \$[REDACTED] on April 26, 2019, and \$[REDACTED] on May 3, 2019. Exhibit A, pp. 15-16.
6. In determining Petitioner's income for HMP, MDHHS did not factor Petitioner's pay for \$0 on April 19, 2019.
7. On April 24, 2019, MDHHS denied Petitioner's Medicaid eligibility under various categories. Medicaid through HMP was specifically denied due to excess income and a calculated income for Petitioner of \$[REDACTED]
8. On May 6, 2019, Petitioner requested a hearing to dispute the denial of Medicaid. Exhibit A, pp. 2-3.

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 April 24, 2019, stated that Petitioner was ineligible for various Medicaid categories. Exhibit A, pp. 17-19.

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. Petitioner testified that he could not claimed as a dependent on another person's taxes. Given the evidence, Petitioner is only potentially eligible for Medicaid through HMP as a group size of one.¹ The HCCDN stated 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.*

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.² 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).

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.³ For Petitioner to

¹ See BAM 211 for Medicaid group composition policy.

² 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.

³ <https://aspe.hhs.gov/2019-poverty-guidelines>

be eligible for HMP, his countable income would have to fall at or below \$16,611.70 (\$1,384.30/month).

The HCCDN mailed to Petitioner stated that Petitioner was denied HMP based on a countable annual income of \$[REDACTED] MDHHS provided no basis for how \$[REDACTED] was calculated as Petitioner's income. Without evidence justifying the income total of \$[REDACTED] will not be considered as evidence of Petitioner's income.

MDHHS testimony indicated that Petitioner's income was calculated from Petitioner's actual gross employment pays beginning March 29, 2019. During the hearing, MDHHS testified that the following gross amounts were factored: \$[REDACTED] on March 29, 2019; \$[REDACTED] on April 3, 2019, \$[REDACTED] on April 12, 2019, and \$[REDACTED] on April 19, 2019.

Typically, MDHHS considers a 30-day period in determining benefit eligibility (see BEM 505). If MDHHS used a full 30 days of income from March 26, 2019 to determine Petitioner's HMP eligibility, Petitioner's April 26, 2019 would have to be included. It is recognized that MDHHS could not have factored Petitioner's pay dated April 26, 2019, when MDHHS first determined Petitioner's HMP eligibility on April 24, 2019. Use of Petitioner's pay dated April 26, 2019, to determine HMP eligibility is justified because MDHHS acknowledged that Petitioner reported on or near April 26, 2019, a reduction in employment. MDHHS also acknowledged that Petitioner's HMP eligibility was recalculated though the recalculations did not factor Petitioner's \$0 pay dated April 26, 2019.

Another reason exists for redetermining Petitioner's HMP eligibility. MDHHS is attempted to determine Petitioner's HMP eligibility for April 2019. Petitioner's actual April 2019 income is now known. Use of actual income from the benefit month being determined is a reasonable method to determine MAGI eligibility and compliant with federal regulations.⁴

Given the evidence, MDHHS should have factored Petitioner's "current" monthly income using Petitioner's pays from April 2019. It cannot be stated that Petitioner is eligible for HMP, but it can be stated that MDHHS improperly determined Petitioner's income for purposes of HMP. MDHHS will be ordered to recalculate Petitioner's HMP eligibility for April 2019 using Petitioner's pays from April 2019.

⁴ Adding Petitioner's gross pays for April 2019 results in a total gross income of \$[REDACTED] which would appear to be under the HMP income limit of \$1,384.30/month. The final calculation will have to be conducted by MDHHS as the role of the administrative process is not to determine a client's eligibility but to determine if MDHHS properly determined a client's eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly calculated Petitioner's income for purposes of HMP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's application dated April 19, 2019, requesting MA benefits; and
- (2) Determine Petitioner's MA eligibility for April 2019 based on Petitioner's actual gross employment income from April 2019, including Petitioner's pay of \$0 dated April 26, 2019.

The actions taken by MDHHS are **REVERSED**.

CG/jaf



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 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

Christine Steen
MDHHS-Wayne-82-Hearings

Petitioner

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