



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 24, 2019
MOAHR Docket No.: 19-005739
Agency No.: ██████████
Petitioner: ██████████

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 3-way telephone hearing was held on July 10, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Crystal Hackney, supervisor, and Maria El-Diane, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Medical Assistance (MA) due to excess income.

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 2, 2019, Petitioner applied for MA benefits. In her application, Petitioner reported a household that included a spouse (hereinafter, "Spouse") and seven (7) minor children. Petitioner reported a gross employment income of ██████████ which was received twice per month. Petitioner also reported for Spouse employment income of ██████████ which was paid by his employer monthly. Exhibit A, pp. 14-22.
2. On May 14, 2019, Petitioner submitted a letter from Spouse's employer stating that Spouse received pays of ██████████ (for commissions) and \$██████ (for hourly wages) on April 2, 2019. The letter further stated that the payments covered all work performed in March 2019.

3. On May 15, 2019, MDHHS denied Petitioner's eligibility under Healthy Michigan Plan (HMP) due to excess income based on Spouse earnings of [REDACTED]/year.
4. On May 28, 2019, Petitioner requested a hearing to dispute the denial of MA benefits. Exhibit A, pp. 4-5.

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 for herself and Spouse. A Health Care Coverage Determination Notice (Exhibit A, pp. 26-30) dated May 15, 2019 stated that Petitioner's eligibility for Medicaid was denied under various categories.

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 and Spouse were between the ages of 19-64 years, not disabled, not pregnant, and caretakers to seven (7) minor children.¹ Given the circumstances, Petitioner and Spouse are only potentially eligible for Medicaid through HMP as a group size of nine (9). The HCCDN stated that Petitioner was ineligible for HMP due to excess income.

¹ During the hearing, Petitioner testified that she is pregnant with her eighth child. For purposes of this decision, Petitioner's pregnancy will not be factored because the evidence indicated that her pregnancy was not relevant at the time of the disputed determination date.

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).

It was not disputed that Petitioner's monthly employment income was \$[REDACTED]. MDHHS multiplied Petitioner's monthly income by 12 to convert the income to an annual amount of [REDACTED].

Spouse's income was disputed. MDHHS received verification from Petitioner verifying Spouse's gross earnings from March 2019. Spouse received on April 2, 2019, payments of \$[REDACTED] for commissions and \$[REDACTED] for hourly wages. Exhibit A, p. 23. The letter went on to state that the pays covered Spouse's work from the month of March 2019; thus, Spouse's total income of \$[REDACTED] from April 2, 2019 appears to be an appropriate measure of Spouse's monthly income.

MDHHS testimony alleged that Petitioner reported during an interview that Spouse received income twice per month. Based on Petitioner's alleged statement, MDHHS doubled Spouse's income from April 2, 2019, to convert the amount to a monthly

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.

income of \$[REDACTED]. MDHHS then multiplied Spouse's income by 12 to convert to an annual income of \$[REDACTED]

The evidence did not definitively establish if Petitioner reported that Spouse received income on a 2x/month basis. It was established that MDHHS had Petitioner's application which reported that Spouse received income monthly. MDHHS also possessed a letter from Spouse's employer stating that Petitioner's pays on April 2, 2019, covered a full month of pays. Given the evidence, MDHHS should not have doubled Spouse's earnings to convert them to a monthly period. Thus, MDHHS improperly calculated Petitioner's and Spouse's income for purposes of HMP. MDHHS will be ordered to redetermine Petitioner's and Spouse's eligibility based on monthly earnings of \$[REDACTED] or Spouse.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's and Spouse's 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) Reregister Petitioner's application dated April 2, 2019, requesting Medicaid coverage for Petitioner and Spouse;
- (2) Process Petitioner's Medicaid eligibility subject to the finding that Spouse's earnings were \$[REDACTED]/month.

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

Via First Class Mail
Petitioner

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

Via Email
DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

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