



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: September 25, 2020  
MOAHR Docket No.: 20-005216  
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 hearing was held on September 10, 2020, via telephone conference. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kevin Lowe, 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 April 2020, Petitioner was an ongoing recipient of Medicaid under the category of Healthy Michigan Plan (HMP).
2. On June 23, 2020, MDHHS terminated Petitioner's HMP eligibility from March 2020 due to excess income.
3. On July 28, 2020, Petitioner requested a hearing to dispute the termination of Medicaid.
4. On September 10, 2020, during an administrative hearing, MDHHS presented no evidence that Petitioner had excess income for HMP.

## 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. Exhibit A, p. 3. A Health Care Coverage Determination Notice (HCCDN) dated June 23, 2020, stated that Petitioner was ineligible for various Medicaid categories as of March 2020. Exhibit A, pp. 5-8.

In its Hearing Summary, MDHHS acknowledged that Petitioner was sent notice of Medicaid closure, but claimed that Petitioner continued to receive Medicaid. MDHHS's claim implied that Petitioner's dispute was favorably resolved; thus, no hearing was needed. To support its claim, MDHHS presented a history of Petitioner's Medicaid issuances dated August 11, 2020. Exhibit A, pp. 10-11. The history listed Medicaid issued to Petitioner for February 2020, April 2020, and May 2020. If Petitioner was an ongoing Medicaid recipient, an issuance history printed in August 2020 should list Medicaid for Petitioner in March 2020 and June 2020 through August 2020. There was also no evidence that MDHHS sent Petitioner a notice of approval after sending a closure notice on June 23, 2020. The evidence failed to establish that MDHHS continued issuing Medicaid to Petitioner. Thus, the analysis will proceed to consider whether MDHHS properly terminated Petitioner's Medicaid eligibility. Such an analysis requires a consideration of Medicaid categories.

The Medicaid program includes several sub-programs or categories. BEM 105 (January 2020), p. 1. 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.*

Evidence was not taken as to which Medicaid categories for which Petitioner was eligible. The evidence did establish that when Petitioner was eligible for Medicaid, he

received it under the category of HMP. The notice dated June 23, 2020, stated that Petitioner was ineligible for HMP due to excess income.

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).

MDHHS presented no documentation of Petitioner's income. MDHHS also did not present a budget listing how Petitioner's income was calculated. The only evidence of Petitioner's income was MDHHS testimony that Petitioner had employment income in March 2020. MDHHS testimony acknowledged that Petitioner's employment income was reported as stopped.

Given the evidence, MDHHS failed to establish that Petitioner was ineligible for HMP due to excess income. As a remedy, Petitioner is entitled to reinstatement of HMP benefits since March 2020.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's Medicaid eligibility since March 2020, subject to the finding that MDHHS failed to establish that Petitioner was ineligible due to excess income; and
- (2) Issue Medicaid benefits and notice in accordance with policy.

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

CG/tlf



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**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 Email:**

MDHHS-Wayne-31-Hearings  
BSC4 Hearing Decisions  
EQAD  
D. Best  
MOAHR

**Petitioner – Via First-Class Mail:**

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