



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: May 20, 2019  
MOAHR Docket No.: 19-002630  
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 May 1, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's child's MIChild eligibility 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. As of January 2019, Petitioner's child, [REDACTED] (hereinafter, "Child"), was an ongoing recipient of Medicaid.
2. As of January 2019, Child was aged between 1 through 18 years.
3. As of January 2019, Petitioner's household included Petitioner's spouse (hereinafter, "Spouse"), Child, and a second minor child.
4. As of January 2019, Spouse received employment income from [REDACTED] (Employer1). As part of Child's redetermination, Petitioner submitted to MDHHS documentation of Spouse's gross pays from Employer1 for \$ [REDACTED]

on January 10, 2019, and \$[REDACTED] on January 25, 2019. Spouse also was receiving an average of \$[REDACTED] month for employment with [REDACTED] (Employer2).

5. As of January 2019, Petitioner received employment income from Employer2 averaging \$[REDACTED] month. Additionally, Petitioner received an average of \$[REDACTED] month for employment with [REDACTED] (Employer3).
6. On February 25, 2019, MDHHS terminated Child's Medicaid eligibility, effective April 2019.
7. On March 11, 2019, Petitioner requested a hearing to dispute the termination of Child's Medicaid eligibility. 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 termination of Child's MA coverage. MDHHS presented a Health Care Coverage Determination Notice (HCCDN) (Exhibit A, pp. 5-11) dated February 25, 2019, stating that Child does not meet the eligibility for various MA 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, Child was a minor child (aged 1 through 18 years) with no unusual circumstances (e.g., pregnant, employed, a caretaker to minor children...).

Given the evidence, Child is ineligible for all SSI-related categories and eligible for some MAGI-related categories. As a minor child, the MA category with the highest income limit for which Child could be eligible for Medicaid is MICHild. The HCCDM stated that Child was no longer eligible for MA under MICHild due to excess income.

MICHild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who have no other health coverage. BEM 130 (July 2016) p. 1. MICHild income eligibility for children 1 through 18 years of age ranges from 160-212% of the federal poverty limit (FPL). *Id.*

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).

Petitioner testified that her household included Spouse and two minor children. The circumstances render Child to be a member of a four-person group which includes all four household members.<sup>1</sup> Thus, Petitioner's and Spouse's incomes are factored in the determination of Child's eligibility for MICHild.

As of the hearing date, Petitioner and Spouse each received employment income from two jobs. For all programs, MDHHS generally counts gross wages.<sup>2</sup> BEM 501 (July 2017), p. 7.

Petitioner submitted to MDHHS documentation of Spouse's biweekly pays from January 2019 for \$[REDACTED] and \$[REDACTED]. MDHHS disregarded Spouse's higher pay from the month due to inclusion of unrepresentative hours. MDHHS doubled Spouse's biweekly pay of \$[REDACTED] to convert to a monthly income, which resulted in a monthly income of \$[REDACTED].

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<sup>1</sup> BEM 211 discusses group composition rules.

<sup>2</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

During the hearing, Petitioner acknowledged that MDHHS accurately calculated Spouse's monthly income from Employer2 as \$[REDACTED] Petitioner's monthly income from Employer2 as \$[REDACTED] and Petitioner's monthly income from Employer3 as \$[REDACTED] Combining the four monthly incomes results in a monthly income total of \$[REDACTED] Multiplying the income by 12 results in an annual income of \$[REDACTED]

MIChild income limits are based on 212% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2019 federal poverty level is \$25,750 for a one-person group.<sup>3</sup> For Child to be eligible for MIChild, countable income would have to fall at or below \$54,590.<sup>4</sup>

Based on the evidence, Petitioner's income exceeds the income limits for MIChild. Thus, MDHHS properly determined Child to be ineligible for MIChild due to excess income. As discussed during the hearing, Petitioner is encouraged to reapply for coverage for Child if and/or when Petitioner's or Spouse's employment income stops or decreases.

### **DECISION AND ORDER**

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

CG/jaf



**Christian Gardocki**

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

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

<sup>4</sup> The HCCDN stated that Child's income could not exceed \$53,212 for a child aged 0-18 years. The income limit appeared to be based on 2018 federal poverty levels. Because Child's eligibility for April 2019 was terminated, 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**

Susan Noel  
MDHHS-Wayne-19-Hearings

**Petitioner**

[REDACTED]  
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