



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]

Date Mailed: June 2, 2021
MOAHR Docket No.: 21-001852
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 hearing was held via telephone conference line on May 20, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearings coordinator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Medical Assistance (MA) benefits

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 [REDACTED], 2021, Petitioner applied for MA benefits and reported himself as the only household member. Petitioner also reported being 19-64 years of age and no disability.
2. As of January 13, 2021, Petitioner received ongoing countable gross biweekly unemployment income of \$[REDACTED].
3. On an unspecified date, MDHHS determined that Petitioner had excess income for Healthy Michigan Plan (HMP) and was otherwise ineligible for MA benefits.
4. On April 7, 2021, Petitioner requested a hearing to dispute the denial of MA benefits.

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 benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice (HCCDN) dated April 13, 2021, stated that Petitioner was ineligible for various Medicaid categories.¹ Exhibit A, pp. 25-28. A consideration of all Medicaid categories is needed to determine if Petitioner was properly denied.

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.*

Petitioner's application for MA benefits dated [REDACTED] 2021, reported the following about Petitioner: a single-person household, non-disability, non-pregnancy, not a caretaker to minor children, and not a recipient of Medicare. Exhibit A, pp. 5-8. Under the circumstances, Petitioner is only potentially eligible to receive MA benefits under HMP. 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 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.*

¹ Notably, Petitioner requested a hearing six days before MDHHS sent this HCCDN. Presumably, MDHHS sent a notice to Petitioner before April 13, 2021; alternatively, Petitioner somehow learned of the MA denial before receiving written notice.

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).

In determining Petitioner's HMP eligibility, MDHHS factored a group of one person. It was not disputed that Petitioner was the only member of his household. Presumably, Petitioner was a tax filer with no dependents. Under the circumstances, Petitioner's benefit group size is one (see BEM 211).

MDHHS presented documentation of Petitioner's unemployment income benefits. Exhibit A, pp. 10-16. The documents verified countable biweekly gross benefits of \$724.³ For MA benefits under MAGI, unemployment benefits should be treated as a reasonably predictable change in income and only be budgeted for the time period received. BEM 503 (January 2021) p. 38.

The HCCDN listed a calculated income for Petitioner of \$█████ Exhibit A, p. 26. MDHHS could not precisely state how Petitioner's income was calculated. MDHHS testimony indicated that an annual income of \$█████ can be calculated by multiplying Petitioner's gross biweekly unemployment benefits of \$█████ by the 26 pay periods within a year. Such a method is a reasonable predictor of annual income, given the circumstances at the time of application. For purposes of this decision, the lower income amount (and more favorable to Petitioner) of \$█████ will be accepted as Petitioner's countable income.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2021 federal poverty level is \$12,880 for a one-person group.⁴ For Petitioner to be eligible for HMP, Petitioner's income would have to fall below \$17,130.40. Petitioner's income of \$█████ exceeded the income limit.

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 natives. No known exceptions are applicable to the present case.

³ MDHHS acknowledged that biweekly Pandemic Unemployment Assistance (listed as PUI on the documentation) of \$600 was not countable.

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

Petitioner's testimony noted that an MDHHS website indicates a lower income limit than relied on by MDHHS in determining his eligibility. The MDHHS website cited by Petitioner lists a monthly income as high as \$[REDACTED] for HMP eligibility.⁵ Multiplying the monthly income limit of \$[REDACTED] by 12 results in an annual income of \$[REDACTED]: indeed, a higher income limit than relied on by MDHHS. The website might be factoring a 5% disregard.

For MAGI-related Medicaid, a 5% disregard is sometimes applicable. The disregard is to be applied as follows:

- The 5% disregard is the amount equal to 5% of the FPL for the applicable family size. It is not a flat 5% disregard from the income.
- The 5% disregard shall be applied to the highest income threshold.
- The 5% disregard shall be applied only if required to make someone eligible for Medicaid. BEM 500 (July 2017) p. 5.

Because of the disregard, a client may be income-eligible for HMP with income less than 138% of the FPL. Under this income limit, Petitioner's income would have to fall below \$17,774.40. Petitioner's income still exceeds the income limit.

Given the evidence, Petitioner's income exceeded the HMP income limit. As Petitioner was ineligible for any other MA categories, MDHHS properly denied Petitioner's application.

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 application for MA benefits dated [REDACTED], 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
Administrative Law Judge

⁵ https://www.michigan.gov/healthymiplan/0,5668,7-326-67957_69564---,00.html

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-55-Hearings
C. George
EQADHearings
BSC4
MOAHR

Petitioner –
Via First-Class Mail:

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