



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████  
████████████████████  
██████████, MI ██████████

Date Mailed: November 3, 2022  
MOAHR Docket No.: 22-004252  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 27, 2022, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Jarred Swartz.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Medical Assistance (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 ████████ ██████ 2022, the Department received Petitioner's application for Medical Assistance (MA), and request for retroactive benefits through June of 2022. Exhibit A, pp 7-19.
2. Petitioner has been receiving unemployment compensation benefits in the gross bi-weekly amount of \$██████ Exhibit A, pp 20-23.
3. Petitioner received unemployment in the gross bi-weekly amounts of \$██████ on June 4, 2022, and June 18, 2022, July 2, 2022, July 16, 2022, July 30, 2022, and August 13, 2022. Exhibit A, pp 20-23.
4. On August 29, 2022, the Department notified Petitioner that he was eligible for Medical Assistance (MA) benefits effective June 1, 2022, but not eligible for the Medicare Savings Program (MSP) effective August 1, 2022. Exhibit A, pp 24-28.

5. Department records indicate that on August 29, 2022, the Department determined that Petitioner is not eligible for Medical Assistance (MA) effective July 1, 2022, and ongoing. Exhibit A, p 29.
6. On September 16, 2022, the Department received Petitioner's request for a hearing protesting the denial of Medical Assistance (MA). Exhibit A, pp 4-6.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (April 1, 2022), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level 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.<sup>1</sup>

---

<sup>1</sup> Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf)

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. Department of Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2016), p 2.

Department policy is consistent with federal regulations under 42 CFR § 435.603(h) that state:

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.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

On ██████ ██████ 2022, the Department received Petitioner's application for assistance. On August 29, 2022, the Department notified Petitioner that he is not eligible for the Medicare Savings Program (MSP). Recipients of Medicare can apply for assistance with paying their Medicare premiums, but in this case, no evidence was presented on the record that Petitioner is eligible for Medicare. Further, Medicare recipients are not eligible for MA benefits under the Health Michigan Plan (HMP).

Petitioner applied for MA benefits on ██████ ██████ 2022, with retroactive benefits through June 1, 2022. Although written notice was not entered into evidence, the hearing record supports a finding that the Department approved Petitioner for MA benefits under the Healthy Michigan Plan for June of 2022, but it denied HMP benefits after that.

The federal poverty level for a household of one in 2022 is \$1,132.50. Petitioner received unemployment totaling \$1,448 in June of 2022, or 128% of the federal poverty level, and he was eligible for HMP benefits. Petitioner received three unemployment checks in July of 2022, for a total of \$2,172, or 192% of the federal poverty level. Petitioner was not eligible for retroactive HMP benefits in July of 2022 based on his gross income and the 5% disregard did not make him eligible for benefits.

The hearing record supports a finding that Petitioner received a \$█████ unemployment compensation payment on August 13, 2022, and unless his unemployment benefits had expired, it seems likely that his next bi-weekly payment would have been received on August 27, 2022, with no further payments in that month. Since Petitioner received the same gross monthly income in August of 2022 as he did in June of 2022, the hearing record supports a finding that Petitioner is eligible for HMP benefits in August of 2022.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined that Petitioner is ineligible for Medical Assistance (MA) under the Health Michigan Plan (HMP) effective August 1, 2022, the month that Petitioner filed his application for assistance.

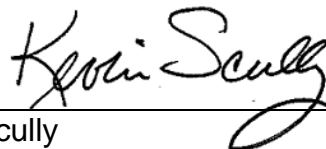
**DECISION AND ORDER**

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) effective August 1, 2022.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/nr



---

Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings and  
Rules (MOAHR)

**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-Electronic Mail :**

**DHHS**  
Kimberly Kornoelje  
Kent County DHHS  
121 Franklin SE  
Grand Rapids, MI 49507  
**MDHHS-Kent-  
Hearings@michigan.gov**

**Interested Parties**  
Kent County DHHS  
BSC3  
D. Smith  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]