



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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██████████, MI ██████████

Date Mailed: August 3, 2023  
MOAHR Docket No.: 23-003202  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 July 5, 2023 via teleconference. Petitioner appeared at the hearing. ██████████ appeared as Petitioner's Authorized Hearing Representative (AHR). At the commencement of the hearing, there was no representative from the Michigan Department of Health and Human Services (MDHHS or Department). Ashley Zielinski, Lead Worker, appeared on behalf of MDHHS at the conclusion of the hearing.

### **ISSUE**

Did MDHHS properly deny Petitioner's application for Medicaid (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 April 5, 2023, Petitioner applied for MA (Exhibit 1, p. 7).
2. On April 5, 2023, MDHHS sent Petitioner a Health Care Coverage Supplemental Questionnaire, which indicated that Petitioner was required to complete the form and provide requested proof by April 17, 2023 (Exhibit 1, p. 9).
3. On April 18, 2023, Petitioner returned the Health Care Coverage Supplemental Questionnaire to MDHHS (Exhibit 1, p. 9).
4. On May 17, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, which indicated that her application for MA was denied because her countable assets exceeded the limit for the program (Exhibit 1, p. 17).

5. On June 2, 2023, Petitioner submitted a Request for Hearing to dispute the denial of her MA application (Exhibit 1, p. 4).

### **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 Medicaid (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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS denied Petitioner's application for MA because it determined that she was over the income limit for the Healthy Michigan Plan (HMP) and exceeded the asset limit for an SSI-related MA category. AHR disputed MDHHS' determination and argued that MDHHS improperly calculated Petitioner's income and assets. When the hearing commenced, there was no representative from MDHHS. Accordingly, AHR presented Petitioner's case. The Hearing Packet prepared by MDHHS was offered into evidence by AHR and admitted as Petitioner's Exhibit 1. A representative from MDHHS appeared at the end of the hearing and did not object to concluding the hearing at that time. Thus, this decision is based on the testimony and documents provided by Petitioner and AHR.

MA is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* Applicants may qualify under more than one MA category. *Id.*, p. 2. Federal law gives applicants 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.* MDHHS must consider all MA category options in order for the client's right of choice to be meaningful. *Id.*

MDHHS determined that Petitioner was over the income limit for HMP. Petitioner disputed the calculation of her income, explaining that it was based on overtime that was irregular and not typical of her normal earnings. To be income eligible for HMP, adjusted gross income must be at or below 133% of the Federal Poverty Level (FPL).

BEM 137 (June 2020), p. 4. HMP has no asset test. *Id.*, p. 4. MDHHS based Petitioner's income calculation on receiving \$[REDACTED] bi-weekly (Exhibit 1, p. 13). MDHHS did not provide testimony at the hearing regarding how income was calculated or whether it factored in changes in Petitioner's income. There is not enough information to know whether MDHHS properly calculated Petitioner's income under MAGI methodology.

If Petitioner exceeds the income limit for HMP, she may be eligible for a MA under an SSI-related category, such as Group 2 Persons Under 21 (G2U). MDHHS determined that she was not eligible for this category because she was over the asset limit for the program. G2U is a MA category available to individuals under age 21 if they meet the other eligibility criteria listed in BEM 132 (April 2018), p. 1. To be eligible under this category, countable assets cannot exceed the asset limit in BEM 400. *Id.* For G2U, the asset limit is \$3,000. *Id.*, p. 7. MDHHS considers cash, investments, retirement plans and trusts as assets. *Id.*, pp. 2-3. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. *Id.*, p. 7.

At application, Petitioner reported that she had two Chase Bank accounts containing \$[REDACTED] and \$[REDACTED] (Exhibit 1, p. 11). Based on this information, MDHHS determined that Petitioner exceeded the income limit of \$3,000.00 for G2U. However, Petitioner would be eligible if her countable assets were less than or equal to the asset limit for at least one day during the month being tested. BEM 400, p. 7. MDHHS did not introduce evidence showing the high and low amounts for Petitioner's accounts during the month being tested and there is no evidence that it requested that information from Petitioner. Without this information, it is unclear whether Petitioner exceeded the asset limit for G2U.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for MA.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reregister and reprocess Petitioner's April 5, 2023 application for MA, requesting additional information regarding Petitioner's income and assets, if necessary;
2. Provide MA coverage to Petitioner for each eligible month, from April 5, 2023 ongoing; and

3. Notify Petitioner of its decision in writing.



LJ/tm

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**Linda Jordan**  
Administrative Law Judge

**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**

Vivian Worden  
Macomb County DHHS Mt. Clemens  
Dist.  
44777 Gratiot  
Clinton Township, MI 48036  
**MDHHS-Macomb-12-  
Hearings@michigan.gov**

**Interested Parties**

M. Schaefer  
EQADHearings  
BSC4

**Via-First Class Mail :**

**Petitioner**

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██████████, MI ██████████

**Authorized Hearing Rep.**

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