



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 23, 2023
MOAHR Docket No.: 23-003672
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 August 2, 2023. Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Jarrod Swartz, Assistant Payments Supervisor.

ISSUE

Did MDHHS properly deny Petitioner's application for Medical Assistance/Medicaid (MA) 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. On [REDACTED] 2023, Petitioner submitted an application for MA for his wife, [REDACTED] (Wife), and himself. Petitioner reported that:
 - a. He works at [REDACTED] (Petitioner Employer), working 40 hours per week, earning \$ [REDACTED] per hour, and is paid bi-weekly.
 - b. Wife works at [REDACTED] (Wife Employer), working 28 hours per week, earning \$ [REDACTED] per hour, and is paid weekly.
 - c. He has a disability.
 - d. He does not receive income from the Social Security Administration (SSA).

(Exhibit A, pp. 7-15).

2. On March 16, 2023, MDHHS issued a Healthcare Determination Notice to Petitioner, informing him that his MA case would be closed, effective February 1, 2023, and Wife's MA case would close, effective March 1, 2023, due to excess income. This Notice stated that Petitioner indicated that he has a disability (Exhibit A, pp. 46-53).
3. On March 27, 2023, MDHHS received Petitioner's timely submitted hearing request to dispute that he was not eligible for MA coverage for the month of February 2023 (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 1396-1396w-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.

Petitioner disputes that he was not eligible for MA coverage for the month of February 2023.

Petitioner reported that he is disabled. MDHHS testified that since Petitioner has not applied for disability assistance with SSA, he is not eligible to receive MA under an SSI-related category. Since Petitioner and Wife have no children and they do not receive income from SSA, they are only eligible for MA under a Modified Adjusted Gross Income (MAGI) category. Petitioner and Wife were receiving MA under the Healthy Michigan Program (HMP). Upon review, MDHHS determined that they were no longer eligible for HMP due to excess income.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost

share. BEM 105 (January 2021), pp. 1-2. HMP provides health care coverage for individuals who:

- Are [REDACTED] years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- **Have income at or below 133 percent Federal Poverty Level (FPL).**

BEM 137 (June 2020), p. 1 (Emphasis Added).

Petitioner does not assert that he meets any non-financial eligibility criteria to qualify for coverage under HMP. MDHHS determined that Petitioner no longer qualified for HMP since his countable income exceeds the income limit. The 2023 FPL (federal poverty level) for a group size of two is \$19,720.00 or \$1,643.00 monthly. 133% of the FPL for a household size of two is \$26,228.00 annually or \$2,185.00 monthly.¹

MDHHS determined that Petitioner's annual income amount is \$ [REDACTED] or \$ [REDACTED] monthly, and \$ [REDACTED] for Wife, or \$ [REDACTED] monthly. MDHHS testified that they calculated Petitioner's income using the income information from the Work Number database. Petitioner Employer verified that the Work Number database has the most accurate information on Petitioner's pay and confirmed that he works 30-40 hours per week, paid \$ [REDACTED] hourly, and paid bi-weekly. Upon review, the Work Number database information is incomplete. Petitioner is paid bi-weekly; however, only one check per month is recorded. Given that Petitioner works a range of hours each week, it is necessary to view complete pay history in order to determine whether he meets the income eligibility criteria to qualify for HMP MA. Since MDHHS was unable to show how Petitioner's income was calculated, they have failed to satisfy their burden that they acted in accordance with policy in closing Petitioner's HMP MA coverage due to excess income.

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 closed Petitioner's MA case.

¹ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>

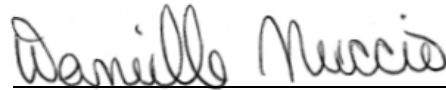
DECISION AND ORDER

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. Reregister the [REDACTED] 2023 MA application;
2. Reprocess the application for February 1, 2023 ongoing;
3. If eligible for MA benefits, provide coverage to Petitioner and Wife for any MA he or she was eligible to receive but did not from February 1, 2023 ongoing;
4. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio
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
MDHHS-Kent-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC3

Via-First Class Mail :

Petitioner

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