



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

████████████████████
████████████████████
████████████████████

Date Mailed: August 4, 2023
MOAHR Docket No.: 23-003759
Agency No.: ██████████
Petitioner: ██████ ██████

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 July 31, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Natalie Marshall, specialist, and Adele Sumption, hearings facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner’s Medical Assistance (MA) eligibility.

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 May 2023, Petitioner was an ongoing recipient of MA under the category of Healthy Michigan Plan (HMP).
2. On May █████ 2023, Petitioner returned a redetermination form to MDHHS reporting being unmarried, not pregnant, not a caretaker to children, between the ages of 19 and 64 years, and not disabled. Petitioner additionally reported ongoing employment income of \$██████ every two weeks.
3. On June 12, 2023, MDHHS sent Petitioner notice of HMP termination beginning July 2021 due to excess income.
4. On June 20, 2023, Petitioner requested a hearing to dispute the termination of HMP.

CONCLUSIONS OF LAW

The 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 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 MA benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice (HCCDN) dated June 12, 2023, stated that Petitioner was ineligible for various Medicaid categories beginning July 2023.¹ Exhibit A, pp. 27-30. Determining whether MDHHS properly terminated Petitioner's MA eligibility requires a consideration of MA categories.

The MA program includes several sub-programs or categories. BEM 105 (January 2021) 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.* MA 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.*

It was not disputed that Petitioner was aged 19-64 years, not pregnant, not disabled, and not a caretaker to minor children as of the MA termination month. Under the circumstances, Petitioner's only potential to receive MA benefits is under the MAGI-methodology category of HMP. The notice dated June 12, 2023, stated that Petitioner was ineligible for HMP due to excess income.

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). For individuals who have been determined financially-eligible for Medicaid 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

¹ Petitioner may have been previously ineligible to receive MA benefits but for MDHHS policy authorizing MA benefits to continue for ineligible persons during the pandemic (see Exhibit A, p. 8). On May 10, 2023 MDHHS ended the policy allowing for MA benefits to be terminated (see Exhibit A, pp. 9-12).

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.

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). MDHHS has chosen to determine HMP eligibility based on current monthly income.³

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁴ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.⁵

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

On a Redetermination form returned to MDHHS on May 25, 2023, Petitioner reported ongoing employment income of \$[REDACTED] every two weeks. Exhibit A, pp. 20-26. Petitioner did not dispute the income. Multiplying Petitioner's biweekly income of \$[REDACTED] by two converts the income to a monthly income of \$[REDACTED]. There was no evidence of applicable income disregards.⁷

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014) p. 1. MDHHS applies a 5% income disregard that is applied to the FPL when the difference would result in a client's eligibility. BEM 500 (July 2017) p. 5. The disregard functionally renders the HMP income limit to be 138% of the FPL. The 2023 federal poverty level is \$14,580 for a one-person group.⁸ For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$20,120.40 (\$1,676.70 per month). Petitioner's monthly income exceeds the HMP income limit.

Petitioner testified that she has financial constraints and needs MA benefits from MDHHS to live more comfortably. Petitioner also indicated that she has various medical problems requiring medical treatment. Petitioner's concerns about losing MA eligibility were sympathetic but do not affect Petitioner's ineligibility.

Given the evidence, Petitioner's income exceeded the HMP income limit. As Petitioner was ineligible for any other MA categories, MDHHS terminated Petitioner's MA eligibility beginning July 2023.

³ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁴ <https://www.investopedia.com/terms/a/agi.asp>

⁵ *Id.*

⁶ MDHHS calculated a monthly income of \$2,764 for Petitioner, but no evidence was presented to explain the calculation.

⁷ Petitioner testified she had an unspecified amount of student loan interest. However, her Redetermination form did not claim such an expense.

⁸ <https://aspe.hhs.gov/poverty-guidelines>

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MA eligibility beginning July 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/dm



Christian Gardocki
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
Randall Pierson
Ottawa County DHHS
**MDHHS-Ottawa-
Hearings@michigan.gov**

SchaferM

EQADhearings

BSC3HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

██████████
██████████████████
██████████████████