



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 21, 2023
MOAHR Docket No.: 23-003901
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 August 7, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Krista Hainey, manager.

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 June 4, 2023, Petitioner returned a redetermination form to MDHHS reporting being unmarried, not pregnant, not a caretaker to children, between the ages of [REDACTED] years, and not disabled.
3. On June 16, 2023, MDHHS sent Petitioner notice of HMP termination beginning July 2023 based on income of \$ [REDACTED] annual income.
4. On June 27, 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. 3-4. A Health Care Coverage Determination Notice dated June 16, 2023, stated that Petitioner was ineligible for various MA categories beginning July 2023. Exhibit A, pp. 14-18. Determining whether MDHHS properly terminated Petitioner's MA eligibility requires a consideration of all 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 MA category is the MAGI-related category of HMP. The notice dated June 16, 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.¹ 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 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

¹ 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.

435.603(h). MDHHS elected to determine HMP eligibility based on current monthly income.²

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.³ 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.⁴

In determining Petitioner's HMP eligibility, MDHHS factored a group of one person. Presumably, Petitioner was a tax filer with no dependents.⁵ Under the circumstances, Petitioner's benefit group size is one (see BEM 211).

The closure notice cited an annual income of \$65,160 for Petitioner: a monthly income of \$5,430. During the hearing, Petitioner did not dispute the income calculated by MDHHS.⁶ There was no evidence of applicable income disregards.

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.⁷ 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's only argument opposing closure concerned proper notice. Petitioner contended that MDHHS gave unreasonable notice by mailing notice of closure only 15 days before the closure date. Petitioner's argument that 15 days was not reasonable was based purely on his feelings; Petitioner provided no objective basis that he was given unreasonably short notice of MA closure.

MDHHS policy requires timely notice for MA closure. BAM 220 (October 2022) p. 5. Timely notice requires sending notice at least 11 days before the intended negative action takes effect. *Id.* In the present case, MDHHS provided Petitioner with proper timely notice by mailing notice 15 days before the negative action took effect on July 1, 2023. Petitioner's argument that MDHHS failed to give reasonable notice was not persuasive.

² https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

³ <https://www.investopedia.com/terms/a/agi.asp>

⁴ *Id.*

⁵ Petitioner lived with an adult child who may have been a tax dependent. However, Petitioner reported on a Redetermination form that his son received a tax refund, thereby suggesting his son filed for taxes separately and was not a tax dependent.

⁶ Petitioner's hearing request suggested a dispute of income, but Petitioner's testimony indicated otherwise.

⁷ <https://aspe.hhs.gov/poverty-guidelines>

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

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/mp



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 :

Interested Parties
MDHHS-Berrien-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC3

Via-First Class Mail :

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