



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 12, 2023
MOAHR Docket No.: 23-004525
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 September 18, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Raven Douthard, Hearings Facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's group's full 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. At all relevant times, Petitioner resided in a household with his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse"), and his minor child, [REDACTED] [REDACTED] (hereinafter, "Child").
2. At all relevant times, Petitioner and Spouse were neither over the age of 65 years, disabled, pregnant, nor a Medicare recipient.
3. As of June 2023, Petitioner received gross monthly wages of at least \$ [REDACTED]

4. On July 3, 2023, MDHHS determined Petitioner, Spouse, and Child eligible for MA through July 2023. MDHHS determined that Petitioner, Spouse, and Child were eligible for deductibles beginning August 2023.
5. On July 31, 2023, Petitioner requested a hearing to dispute the loss of Group 1 MA eligibility for himself, Spouse, and Child.

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 Group 1 MA eligibility beginning July 2023. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated July 3, 2023, stated that Petitioner, Spouse, and Child were eligible for MA subject to monthly deductibles beginning July 2023. Determining whether MDHHS properly terminated each member'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 and Spouse were aged 19-64 years, not pregnant, and not disabled. Under the circumstances, Petitioner's and Spouse's MA category with the highest income limit is the MAGI-related category of HMP.¹ The notice dated July 3, 2023, stated that Petitioner was ineligible for HMP due to excess income.

¹ MDHHS stated that Petitioner's group received MA under Low-Income Family (LIF) in the past.

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 MA 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 435.603(h). MDHHS elected 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 and Spouse's HMP eligibility, MDHHS factored a group of three persons. Presumably, Petitioner was a tax filer with two dependents. Under the circumstances, Petitioner's benefit group size is three (see BEM 211).

MDHHS testified it factored a gross monthly wage for Petitioner of \$ [REDACTED] (\$ [REDACTED] per year).⁶ MDHHS did not explain how the income was calculated though the evidence suggested it was a fair estimate. Petitioner submitted to MDHHS two weekly pay documents listing gross incomes totaling \$ [REDACTED] Exhibit B, pp. 1-3. Doubling the two-week gross amount would result in a monthly income of \$ [REDACTED] an amount far exceeding \$4,469. Furthermore, one of the documents listed Petitioner's year-to-date wages exceeding \$33,000 through the pay period of July 2, 2023; doubling the wages through approximately halfway into the year would result in an annual income exceeding \$66,000. Given the evidence, it will be accepted that Petitioner's gross monthly wages were \$ [REDACTED]

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 when the disregard is the difference between a client's eligibility and ineligibility. 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 \$24,860 for a three-person group.⁷ For Petitioner or Spouse to be eligible for HMP, Petitioner's income would have to not exceed \$34,306 (\$2,858.90 per month). Petitioner's monthly income exceeds the HMP income limit. As Petitioner and Spouse

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.

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 The evidence suggested that MDHHS actually factored \$5,708 in gross income as Petitioner's net income for purposes of Group 2 MA categories was \$4,469. See Exhibit E, p. 1.

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

were ineligible for any other Group 1 MA categories, MDHHS properly determined that Petitioner and Spouse were ineligible for Group 1 MA.

MDHHS also terminated Group 1 benefits for Child. Child is the only group member under age 19. As a person under age 19, Child is potentially eligible to receive MA through MIChild.

MIChild income limits are based on 212% of the federal poverty level (FPL). BEM 130 (July 2021) p. 1. Applying the 5% disregard functionally renders the income limit to be 217% of the FPL. The 2023 federal poverty level is \$24,860 for a three-person group.⁸ For Child to be eligible for HMP, Petitioner's income would have to not exceed \$52,703 (\$4,391 per month). Petitioner's monthly income exceeds the MIChild income limit. As Child was ineligible for any other Group 1 MA categories with a smaller income limit, MDHHS properly terminated Petitioner's Group 1 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 Group 1 MA eligibility beginning August 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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

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

Via-Electronic Mail :

DHHS

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Interested Parties

Wayne 18 County DHHS
BSC4
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Via-First Class Mail :

Petitioner

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