



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], MI [REDACTED]

Date Mailed: October 30, 2023
MOAHR Docket No.: 23-005437
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 on October 25, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Raven Douthard, hearings facilitator. Juda Rivera of Linguistica International participated as a Spanish-English translator.

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 July 2023, Petitioner resided in a household with her spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse"), and an adult minor child who was not a tax dependent.
2. As of July 2023, Petitioner and Spouse were MA recipients with benefit periods certified through August 2023.
3. As of July 2023, Petitioner and Spouse were neither under 19 years of age, over the age of 65 years, disabled, pregnant, a caretaker to a minor child, nor a Medicare recipient.

4. As of July 2023, Petitioner and Spouse each received net monthly wages of at least \$2,289.
5. On August 16, 2023, MDHHS determined Petitioner and Spouse ineligible for MA through beginning September 2023.
6. On August 31, 2023, Petitioner requested a hearing to dispute termination of her and Spouse's MA benefits.

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.¹ Exhibit A, p. 3. MDHHS terminated Petitioner's and Spouse's MA eligibility after Petitioner submitted documentation for a MA benefit redetermination beginning September 2023. Exhibit B, pp. 1-4. A Health Care Coverage Determination Notice dated August 16, 2023, stated that Petitioner and Spouse were ineligible for MA benefits beginning September 2023.² Exhibit A, pp. 19-25. Determining whether MDHHS properly terminated Petitioner's MA benefits 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.*

¹ Petitioner's hearing request alleged that all Michigan residents have the right to health insurance. Petitioner did not cite a source for the right to health insurance as a Michigan resident and no known source exists.

² The notice sent to Petitioner was written in Spanish.

It was not disputed that Petitioner and Spouse were aged 19-64 years, not pregnant, and not disabled. Under the circumstances, Petitioner and Spouse are only potentially eligible for the MAGI-related category of HMP. The notice date August 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.³ 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.⁴

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁵ 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.⁶

In determining Petitioner's and Spouse's HMP eligibility, MDHHS factored a group of two persons. Petitioner and Spouse were both employed, and their youngest child was 23 years old. Presumably, Petitioner and Spouse were tax filers with no dependents. Under the circumstances, Petitioner's benefit group size is two (see BEM 211).

Petitioner submitted to MDHHS various bank documents listing wage deposits for herself and Spouse. Exhibit A, pp. 4-9. Though MDHHS should factor a client's gross income in determining MA eligibility, MDHHS accepted the documents showing Petitioner's net income as acceptable. Petitioner acknowledged that she and Spouse received weekly net wages of \$586.15, but one pay per month was reduced by \$40 for a union dues payment. Adding the wages results in a countable income of \$2,304 for each person and \$4,608 (dropping cents) combined.

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 \$19,720 for a two-person group.⁷ For Petitioner and Spouse to be eligible

³ 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.

⁴ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁵ <https://www.investopedia.com/terms/a/agi.asp>

⁶ *Id.*

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

for HMP, Petitioner's group's income would have to not exceed \$27,213.60 (\$2,267.80 per month). Petitioner's group's income of \$4,608 exceeds the HMP income limit.⁸ As Petitioner and Spouse were ineligible for any other MA categories, MDHHS properly determined that Petitioner and Spouse were ineligible for MA benefits.

Petitioner testified that she is diabetic, arthritic, and has high blood pressure. Petitioner further testified that she and Spouse have a great need for MA coverage. Petitioner's testimony was wholly understandable but does not alter her or Spouse's ineligibility due to excess income.

Given the evidence, Petitioner and Spouse had excess income for MA benefits. Thus, MDHHS properly terminated Petitioner's and Spouse's MA eligibility beginning September 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 and Spouse's MA benefits beginning September 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 MDHHS testified it calculated an income of \$30,348 but failed to explain how the income arrived.

Via-Electronic Mail :

DHHS

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Interested Parties

Wayne 18 County DHHS
BSC4
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MOAHR

Via-First Class Mail :

Petitioner

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