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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: December 8, 2023
MOAHR Docket No.: 23-006065
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on November 8, 2023, via teleconference. Petitioner appeared and represented himself. ██████████ appeared as a witness for Petitioner. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's Medicaid (MA) coverage?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of Healthy Michigan Plan (HMP) MA benefits.
2. On May 25, 2023, Petitioner submitted a Redetermination for MA, reporting employment at ██████████ (Employer) and that he worked an average of 36 hours per week and earned \$██████████ per hour (Exhibit A, pp. 9-10). Petitioner submitted a paystub from Employer showing that on April 28, 2023, Petitioner received \$██████████ in gross pay for a two-week period (Exhibit A, p. 15). Petitioner submitted another paystub showing that on April 14, 2023, Petitioner received \$██████████ in gross pay for a two-week period (Exhibit A, p. 16).

3. On August 28, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was not eligible for MA, effective October 1, 2023 ongoing (Exhibit A, p. 4). MDHHS calculated Petitioner's countable annual income as \$ [REDACTED] (Exhibit A, p. 5).
4. On September 20, 2023, Petitioner filed a Request for Hearing to dispute the termination of his MA coverage (Exhibit A, p. 3).

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).

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (October 2023), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage because it determined that he was over the income limit for the program. Petitioner disputed MDHHS' determination and alleged that MDHHS overestimated his income.

MA includes several sub-programs or categories. BEM 105, 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, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or

retirement savings.¹ Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI-related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size.²

To be eligible for HMP, an individual's net income cannot exceed 133% of the Federal Poverty Level (FPL).³ RFT 246 (April 2014), p. 1. MDHHS also applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of FPL. The 5% disregard is the amount equal to 5% of FPL, not a flat 5% disregard of income. BEM 500, p. 5.⁴ In fiscal year 2023, 138% of FPL for a group-size of one was \$20,120.40 annually or \$1,676.70 per month.

Here, no evidence was admitted to show that Petitioner was eligible for SSI-related MA based on age or disability. Therefore, Petitioner was only potentially eligible for MAGI-related MA, including HMP. MDHHS determined that Petitioner had a group-size of one and was over the income limit for HMP based on his employment income from Employer. When Petitioner submitted his Redetermination, he provided MDHHS with two paystubs showing biweekly pay in the amounts \$██████████ and \$██████████ (Exhibit A, pp. 15-16). Based on these paystubs, MDHHS determined that Petitioner's annual income was \$██████████, which exceeded the HMP income-limit for a household size of one. Although the precise methodology for calculating the annual income is unclear from the record, Petitioner's monthly income of \$██████████ exceeded the monthly income limit of \$██████████.

At the hearing, Petitioner and Witness testified that Petitioner's income was inconsistent and that he had started and stopped several other jobs in the months following the Redetermination. However, there was no evidence that Petitioner informed MDHHS of these changes prior to the termination of his coverage. Therefore, the record reflects that MDHHS based Petitioner's annual income on the information that it had at the time. Additionally, MDHHS is required to use an individual's current monthly income to determine eligibility and the record shows that it used the prior thirty days of Petitioner's income from the time that he submitted the Redetermination, in accordance with policy. Petitioner was advised that he can reapply for MA at any time and MDHHS will reassess his eligibility based on his current circumstances.

¹ See Healthcare.gov, Count Income & Household Size, available at <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (last accessed December 7, 2023).

² Michigan Medicaid State Plan, December 18, 2017 Submission, available at <https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf> (last accessed December 7, 2023).

³ Federal Poverty Level (FPL) refers to the Federal Poverty Guidelines published annually in the Federal Registrar. ASPE, Poverty Guidelines, available at <<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>> (last accessed December 7, 2023).

⁴ Modified Adjusted Gross Income Related Eligibility Manual (May 2014), p. 15, available at <https://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf> (last accessed December 7, 2023).

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 acted in accordance with Department policy when it terminated Petitioner's MA coverage.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



LJ/tm

Linda Jordan
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

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Via-First Class Mail :

Petitioner

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