



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

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Date Mailed: December 8, 2023
MOAHR Docket No.: 23-006229
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 9, 2023, via teleconference. Petitioner appeared and represented herself. ██████████ appeared as a witness for Petitioner. Tom Jones, Assistance Payments Supervisor, 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 MA coverage.
2. On August 30, 2023, Petitioner submitted a Redetermination for MA to MDHHS (Exhibit A, p. 40).
3. On September 8, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice stating that Petitioner was ineligible for MA, effective October 1, 2023 ongoing (Exhibit A, p. 48). MDHHS calculated that Petitioner's annual income was \$██████████ (Exhibit A, p. 48).

4. On September 19, 2023, Petitioner filed a Request for a Hearing to dispute the termination of her MA benefits (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).

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 she was over the income limit for the program. Petitioner disputed this action, alleging that MDHHS overestimated her annual 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

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).

eligibility on current monthly income and family size, and can take into account any reasonably predictable increase or decrease in income.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.

Petitioner was a recipient of HMP MA. There was no evidence 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 and Plan First. MDHHS testified that it determined that Petitioner was over the income-limit for HMP and Plan First based on her employment income. MDHHS testified that it relied on paystubs from Petitioner's employment, which showed that she received \$[REDACTED] in gross earnings for the biweekly pay period ending August 5, 2023 (Exhibit A, p. 26), and that she received \$[REDACTED] in gross earnings for the biweekly pay period ending July 22, 2023 (Exhibit A, p. 25). However, it is unclear how MDHHS reached an annual amount of \$[REDACTED] based on these payments, which added together equal \$[REDACTED]. The annual amount of \$[REDACTED] divided by the 12 months in a year equals \$[REDACTED], which is substantially higher than the income Petitioner received in that 30-day period.

Petitioner testified that she informed MDHHS at her income varied substantially, and the paystubs that she submitted to MDHHS show that her biweekly income fluctuated from \$[REDACTED] to \$[REDACTED] (Exhibit A, pp. 8-29). Petitioner testified that her income in 2022 was \$[REDACTED], which was a better estimate of the income that she was expected to receive in 2023. No evidence was presented to show whether MDHHS considered that Petitioner's fluctuating income was "reasonably predictable" and therefore, should have been factored into the annual income calculation.

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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's MA coverage.

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).

DECISION AND ORDER

Accordingly, the MDHHS' decision is **REVERSED**. MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's MA case and redetermine Petitioner's MA eligibility, from October 1, 2023 ongoing;
2. If eligible, provide MA coverage to Petitioner from October 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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

