



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]
[REDACTED], MI [REDACTED]

Date Mailed: November 30, 2023
MOAHR Docket No.: 23-006380
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 November 16, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

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 her spouse, Samia Zachary, and their minor child, Rose (hereinafter, "Child").
2. At all relevant times, Child was under 18 years of age, not disabled, not pregnant, not disabled, and not a Medicare recipient.
3. As of July 2023, Child was an ongoing recipient of MA benefits with a benefit period certified through October 2023.
4. As of July 2023, Petitioner received gross biweekly income of \$ [REDACTED]

5. As of July 2023, Petitioner's spouse received gross biweekly income of \$ [REDACTED]
6. On September 11, 2023, MDHHS terminated Child's MA eligibility beginning October 2023 due to excess income.
7. On September 28, 2023, Petitioner requested a hearing to dispute the termination of Child's MA eligibility.

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 Child's MA eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated September 11, 2023, stated that Child was ineligible for MA benefits beginning October 2023.¹ Exhibit A, pp. 9-15. To determine if MDHHS properly terminated Child's MA eligibility, Child's potential MA categories must be considered.

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 Child was under the of 18 years, not pregnant, and not disabled. Under the circumstances, the MA category with the highest potential income limit for Child is the MAGI-related category of MIChild. The notice dated September 11, 2023, stated that Child was ineligible for MIChild due to excess income.

¹ The notice also informed Petitioner of a termination of her and her spouse's MA benefits. However, Petitioner did not request a hearing to dispute the termination of their MA benefits; thus, the analysis will only address Child's MA eligibility.

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 Child's eligibility, MDHHS factored a group of three persons. Presumably, Petitioner and/or her spouse was a tax filer with two dependents. Under the circumstances, Petitioner's benefit group size is three (see BEM 211).

It was not disputed that Petitioner and her spouse each received biweekly employment income at the time of MA benefit termination. Petitioner reported receiving \$12,000 in gross annual wages on renewal documents submitted to MDHHS on August 25, 2023. Dividing the annual income by 26 results in a biweekly income of \$461.00. For unspecified reasons MDHHS calculated a biweekly income of \$450.00. As MDHHS calculated a lower and more favorable income for Petitioner, \$450.00 will be accepted as a correct income. For Petitioner's spouse, MDHHS testified it only considered his biweekly gross income issued on July 28, 2023, of \$1,885.80. Exhibit A, p. 18. Petitioner did not dispute the income calculated by MDHHS. Adding the biweekly income of Petitioner and her spouse results in a total biweekly income of \$ [REDACTED]. Multiplying the income by two results in a monthly income of \$ [REDACTED]. Petitioner provided no evidence of applicable deductions.⁶

MICChild 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.⁷ For Child to be eligible for MICChild, Petitioner's group's income would have to not exceed

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 Petitioner testified she does have student loan interest but could not state whether it was reported or how much interest she incurred.

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

\$53,946.20 (\$4,495 per month). Petitioner's group's monthly income of \$ [REDACTED] exceeds the MICHild income limit.

Petitioner testified her income has changed since Child's MA benefits were terminated. Petitioner's testimony is relevant if she chooses to reapply for MA benefits, but it has no impact on whether MDHHS properly terminated Child's MA benefits because Petitioner's income ended after benefit termination. Given the evidence, MDHHS properly terminated Child's Group 1 MA eligibility beginning October 2023.⁸

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Child's MA eligibility beginning October 2023 due to excess income. 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 Child may be eligible for MA subject to a monthly deductible under a Group 2 MA category. However, MDHHS credibly testified it did not determine a deductible for Child because Petitioner failed to verify assets.

Via-Electronic Mail :

DHHS

Yaita Turner
Oakland County Pontiac-Woodward
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51111 Woodward Ave 5th Floor
Pontiac, MI 48342

**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties

Oakland 4 County DHHS
BSC4
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
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