



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: December 18, 2023
MOAHR Docket No.: 23-006790
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 December 6, 2023. Petitioner participated but only to authorize a hearing representative. [REDACTED] [REDACTED] Petitioner's daughter, participated as an English-Arabic translator. [REDACTED] [REDACTED] Petitioner's daughter-in-law, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, manager.

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 was neither over the age of 65 years, under 19 years of age, disabled, pregnant, nor a Medicare recipient.
2. At all relevant times, Petitioner resided with her spouse who received ongoing employment income.

3. On September 13, 2023, MDHHS determined Petitioner was ineligible for MA benefits beginning November 2023 based on a benefit group of one person and unspecified income.
4. On October 5, 2023, Petitioner requested a hearing to dispute the termination of 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 beginning November 2023. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated September 13, 2023, stated that Petitioner was ineligible for MA benefits beginning November 2023.¹ Exhibit A, pp. 42-47. Determining whether MDHHS properly terminated Petitioner's MA eligibility requires a consideration of 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 was aged 19-64 years, not pregnant, and not disabled. Under the circumstances, The MA category with the highest income limit for which Petitioner may qualify is the MAGI-related category of HMP. MDHHS testified that Petitioner was ineligible for HMP due to excess income.

¹ The presented notice was written in Arabic. However, it was not disputed that MA benefits ended November 2023 and it is assumed that the notice would have the proper closure month.

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

Petitioner's AHR testified that Petitioner resided with her spouse who was a tax filer. Under the circumstances, Petitioner is presumably a tax dependent resulting in a HMP benefit group of two persons (see BEM 211). However, MDHHS testimony insisted it factored a benefit group including only Petitioner. Based on its insistent testimony, it will be accepted that Petitioner's MA eligibility was based on a group only including Petitioner. MDHHS provide no evidence that Petitioner had any income.

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 \$20,120.40 for a one-person group.⁶ For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$20,120.40 (\$1,676.70 per month). Petitioner's monthly income of \$0 is less than the HMP limit.

The evidence failed to establish that MDHHS properly terminated Petitioner's HMP eligibility. Due to concerns about Petitioner's group size, the evidence did not establish that Petitioner is eligible for HMP.⁷ Under the circumstances, MDHHS will be ordered to reprocess Petitioner's HMP eligibility.

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

⁷ MDHHS's hearing packet included documentation of Petitioner's spouse's wages. Exhibit A, pp. 21-22. Petitioner's spouse's biweekly income from two pay dates totaled \$ [REDACTED] (dropping cents). Under a two-person group, the income would render Petitioner ineligible to receive HMP. This conclusion was not made a finding because it is not the responsibility of the undersigned to determine eligibility, only to determine if MDHHS properly determined eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's MA eligibility beginning November 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner's MA eligibility beginning November 2023 subject to the finding that MDHHS failed to establish it properly terminated Petitioner's MA eligibility; and
- (2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

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

Via-Electronic Mail :

DHHS

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested

Oakland 3 County DHHS
BSC4
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Authorized Hearing Representative

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]