



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: February 12, 2024
MOAHR Docket No.: 23-008040
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 January 29, 2024. Petitioner did not participate.¹ [REDACTED] Petitioner's daughter, testified on behalf of Petitioner and participated as Petitioner's authorized hearing representative (AHR). [REDACTED] [REDACTED] Petitioner's son-in-law, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Kenitha Brown, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's and his spouse'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. On October 23, 2023, Petitioner submitted to MDHHS MA redetermination documents reporting a household including his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse") and their [REDACTED]-year-old child (AHR).

¹ Petitioner was present for the hearing but required a translator. While on the record and through the translation of the authorized hearing representative, Petitioner agreed that the hearing could transpire without his testimony.

2. As of October 2023, Petitioner and spouse were aged 19-65 years, not disabled, not pregnant, not caretakers to minor children, and not recipients of Medicare.
3. On October 23, 2023, Petitioner submitted to MDHHS a 2022 tax return listing self-employment income from [REDACTED] of \$ [REDACTED]
4. On November 2, 2023, MDHHS terminated Petitioner's and Spouse's MA eligibility beginning December 2023 due to excess income from unspecified sources and allegedly unverified self-employment expenses.
5. On November 13, 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. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated November 2, 2023, stated that Petitioner and Spouse were ineligible for various MA categories beginning December 2023.² Exhibit A, pp. 40-45. Determining whether MDHHS properly terminated Petitioner's and Spouse'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.*

² The notice also determined that Petitioner's son was ineligible to receive MA benefits. Petitioner did not dispute the termination of her son's MA benefits, only her own.

It was not disputed that Petitioner and/or Spouse were aged 19-64 years, not pregnant, not disabled, not recipients of Medicare, and not a caretaker to minor children as of the MA termination month. Under the circumstances, Petitioner's and Spouse's only potential MA category is the MAGI-related category of HMP. MDHHS stated that Petitioner and Spouse were 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 Medicaid 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

The amount of self-employment income before any deductions is called total proceeds. BEM 502 (October 2019) p. 3. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. *Id.*

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 denial notice stated that a group size of three persons was factored, as well as a benefit group income of \$ [REDACTED] Exhibit A, pp. 13-18. A benefit group of three is consistent with Petitioner's reporting on a Redetermination form listing himself, his spouse, and an [REDACTED]-year-old child as household members. Exhibit A, pp. 20-26. The 2023 federal poverty level is \$24,860 for a 3-person group.⁸ For Petitioner's group to be eligible for HMP, Petitioner's group's income would have to not exceed \$ [REDACTED] (\$ [REDACTED] per month).

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 See BEM 211 for MA benefit group composition.

⁸ <https://aspe.hhs.gov/poverty-guidelines>

It was not disputed that Petitioner had self-employment income from [REDACTED] MDHHS's hearing packet did not include a budget explaining how Petitioner's income was calculated. During the hearing, MDHHS eventually admitted that it was unsure how income was calculated, and that income was incorrectly calculated. Without any evidence of how Petitioner's income was calculated, it is proper to order MDHHS to reprocess HMP eligibility.

Though MDHHS was unable to establish that income was correctly calculated, an additional dispute arose from the self-employment expenses. Because Petitioner submitted to MDHHS a tax return which included a Schedule C. Exhibit A, pp. 31-39. MDHHS contended that Petitioner must verify self-employment expenses with receipts and not a tax return. Self-employment expenses may be verified by a U.S. individual federal income tax return (Form 1040) or a Profit or Loss from Business (Schedule C). BEM 502 (October 2019) p. 8. Petitioner's submission of a complete tax return, including a Schedule C, should have sufficiently verified self-employment expenses.

Given the evidence, MDHHS incorrectly determined Petitioner's group's self-employment income and expenses for MA benefits. As a remedy, Petitioner is entitled to a reprocessing of MA benefits beginning December 2023.

DECISION AND ORDER

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

- (1) Redetermine Petitioner's MA eligibility, effective December 2023, subject to the findings that MDHHS improperly calculated Petitioner's self-employment income and that MDHHS failed to allow a tax return as verification of expenses; and
- (2) Issue benefit supplements and notice, 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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties
Macomb 20 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

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

Authorized Hearing Rep.
[REDACTED]
[REDACTED], MI [REDACTED]