



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: February 23, 2024  
MOAHR Docket No.: 23-009021  
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 February 14, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) failed to participate despite being given at least 15 minutes from the scheduled hearing time to call.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner'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 17, 2023, Petitioner submitted to MDHHS redetermination documents to continue MA benefits. Petitioner reported being aged between 19-65 years, unmarried, not being pregnant, and not being a caretaker to a minor child.
2. As of October 2023, Petitioner received ongoing gross Retirement, Survivors, Disability Insurance of \$2,620 and gross monthly retirement income of \$997.

3. On November 30, 2023, MDHHS sent Petitioner notice of MA benefit termination beginning January 2024.
4. As of December 6, 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 4-5. A Health Care Coverage Determination Notice dated November 30, 2023 stated that Petitioner was ineligible for various MA categories beginning January 2024. Exhibit A, pp. 15-18. 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.*

In October 2023, Petitioner submitted redetermination documents to MDHHS which reported that she was aged 19-64 years, not pregnant, not disabled, and not a caretaker to minor children. Exhibit A, pp. 6-12. Under the circumstances, Petitioner's only potential MA category is the MAGI-related category of HMP. MDHHS stated that Petitioner was 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.<sup>1</sup> 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.<sup>2</sup>

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.<sup>3</sup> 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.<sup>4</sup>

In determining Petitioner's HMP eligibility, MDHHS stated it factored a group of one person. A group of one person is consistent with Petitioner's reporting that she was unmarried and resided alone.<sup>5</sup>

It was not disputed that Petitioner received \$2,620 in gross monthly RSDI. Generally, MDHHS counts the gross RSDI benefit amount as unearned income.<sup>6</sup> BEM 503 (January 2023), p. 29. All RSDI income is countable to tax-filers and adults not claimed as dependents. *Id.*, 30. Petitioner also received retirement gross monthly income of \$997. MDHHS counts gross retirement income for all programs. *Id.* Adding Petitioner's RSDI and pension results in a monthly countable income of \$3,617.

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 for a 1-person group residing in Michigan is \$14,580.<sup>7</sup> 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 exceeds the HMP income limit.

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<sup>1</sup> 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 in the present case.

<sup>2</sup> [https://www.michigan.gov/documents/mdhhs/SPA\\_17-0100\\_Approved\\_638230\\_7.pdf](https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf)

<sup>3</sup> <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi>

<sup>4</sup> *Id.*

<sup>5</sup> See BEM 211 for MDHHS policy to determine group size.

<sup>6</sup> Exceptions to counting gross RSDI include the following: certain former SSI recipients (e.g., disabled-adult children, 503 individuals, and early widowers), retroactive RSDI benefits, Medicare premium refunds, fee deductions made by qualified organizations acting as payee, and "returned benefits" (see BAM 500). No exceptions were applicable to the present case.

<sup>6</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl>

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

Petitioner presented various tax forms. Exhibit A, pp. 22-28. Petitioner contended that her hypothetical adjusted gross income for the tax year of 2024 is below the HMP income limit; thus, Petitioner contended that her MAGI should also be below the income limit. The tax forms were not persuasive evidence of income due to their hypothetical nature as well as the direct evidence that Petitioner's income exceeded HMP limits.<sup>8</sup>

The evidence established that Petitioner had excess income for HMP. Because Petitioner was ineligible for any other MA categories, MDHHS properly terminated Petitioner's MA eligibility beginning January 2024.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MA eligibility beginning January 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr

  
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**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

<sup>8</sup> Also, the tax forms failed to explain why Petitioner calculated only \$1,281 of \$31,440 in total RSDI benefits to be taxable. Exhibit A, p. 24,

**Via-Electronic Mail :**

**DHHS**

Jared Ritch  
Oakland County Pontiac-Woodward  
51111 Woodward Ave 5th Floor  
Pontiac, MI 48342

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

**Interested Parties**

Oakland 4 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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