



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
DIRECTOR

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

Date Mailed: February 29, 2024
MOAHR Docket No.: 23-009528
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 26, 2024. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings coordinator.

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 [REDACTED] 2022, Petitioner applied for Child Development and Care (CDC) benefits, which was Petitioner's most recent CDC application as of the hearing date.
2. On December 8, 2022, MDHHS sent Petitioner notice of CDC application denial.
3. On November 1, 2023, Petitioner applied for MA benefits, but not CDC benefits and reported a household that included his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse"), and two minor children.

4. As of November 2023, Petitioner and Spouse were aged between 19-64 years, not disabled, not pregnant, not recipients of Medicare, and caretakers to two minor children.
5. As of November 2023, Petitioner received \$ [REDACTED] in annual income from a Limited Liability Company (LLC).
6. On November 13, 2023, MDHHS determined Petitioner and Spouse to be ineligible for MA benefits beginning December 2023 other than for the limited coverage of Plan First.
7. On December 19, 2023, Petitioner requested a hearing to dispute his and Spouse's MA eligibility. Petitioner also requested a hearing to dispute a denial of CDC benefits.

CONCLUSIONS OF LAW

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. CDC policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute CDC benefits. Exhibit A, pp. 3-4. Petitioner testified he has repeatedly applied for CDC benefits and MDHHS repeatedly denied his applications. Petitioner was uncertain when he last applied but testified that he thinks he last applied for CDC when he last applied for MA benefits: on November 1, 2023. Petitioner's most recent application verified that Petitioner did not apply for CDC benefits on November 1, 2023. Exhibit A, pp. 10-17.

During the hearing, MDHHS was asked to check when Petitioner last applied for CDC benefits. MDHHS testified that its database indicated that Petitioner last applied for CDC benefits on [REDACTED] 2022.¹ MDHHS additionally testified that Petitioner was sent notice of CDC denial on December 8, 2022. MDHHS's testimony was credible and unrebutted by any evidence other than Petitioner's uncorroborated testimony. The evidence established that Petitioner last applied for CDC benefits on [REDACTED] 2022.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to

¹ MDHHS credibly testified that Petitioner also applied for CDC benefits on [REDACTED] 2022, and that MDHHS denied Petitioner's application on September 2, 2022, due to excess gross income.

R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) that an opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to consider the recipient's choice of service. Furthermore, a client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6.

Petitioner requested a hearing on December 19, 2023: 382 days after MDHHS mailed Petitioner written notice of the most recent CDC application denial. Because Petitioner waited longer than 90 days to request a hearing, there is no administrative jurisdiction to address Petitioner's CDC dispute. Concerning CDC benefits, Petitioner's hearing request will be dismissed.²

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 BAM, BEM, and RFT

Petitioner also requested a hearing to dispute a determination of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated November 13, 2023, stated that Petitioner and Spouse were only eligible for the limited coverage under the MA category of Plan First beginning December 2023.³ Exhibit A, pp. 6-9. Determining whether MDHHS properly determined 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 2023) 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 As discussed during the hearing, Petitioner is free to reapply for CDC benefits.

³ Plan First Medicaid (MA) is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. BEM 124 (July 2023) p. 1.

It was not disputed that Petitioner and Spouse were aged 19-64 years, not pregnant, not disabled, caretakers to minor children, and not recipients of Medicare. Under the circumstances, Petitioner's and Spouse's only potential Group 1 MA category with unlimited MA coverage was 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.⁴ 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.⁵

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁶ 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.⁷

For tax filers, the MAGI benefit group includes a spouse and tax dependents. Presumably, Petitioner's two minor children residing with Petitioner and Spouse were tax dependents. Under the circumstances, Petitioner's MAGI group is four persons.⁸

Petitioner's and Spouse's only income derived from employment. Petitioner testified that he and Spouse received income from an LLC in their employment as manicurists. MDHHS counts the income a client receives from an LLC as wages, even if the client is the owner. BEM 501 (January 2024) p. 5. Petitioner's testimony acknowledged that the income factored by MDHHS, \$52,400, fairly represented the household's income.⁹ Given the evidence, \$██████████ will be accepted as the group's annual income.

Petitioner testified he has substantial expenses for dependent care. Petitioner's testimony was uncorroborated, though credible. Even accepting Petitioner's testimony as fact does not alter the MAGI calculation because dependent care expenses are not factored in determining income eligibility for HMP.

⁴ 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.

⁵ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁶ <https://www.investopedia.com/terms/a/agi.asp>

⁷ *Id.*

⁸ See BEM 211 for benefit group composition policy.

⁹ Income documentation from Petitioner included a 2022 tax statement and checks made out to Petitioner and Spouse from the LLC. Exhibit A, pp. 18-20.

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 4-person group residing in Michigan is Michigan residents is \$30,000.¹⁰ For Petitioner and Spouse to be eligible for HMP, the group's income would have to not exceed \$41,400. Petitioner's and Spouse's annual income of \$ [REDACTED] exceeds the HMP income limit.

The evidence established that Petitioner and Spouse had excess income for HMP. Because Petitioner and Spouse were ineligible for any other MA categories with a higher income limit, MDHHS properly limited Petitioner's and Spouse's MA eligibility to Plan First beginning December 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing disputing a denial of CDC benefits. Concerning CDC benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly approved Petitioner and Spouse for the limited coverage MA category of Plan First beginning December 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

¹⁰ <https://aspe.hhs.gov/poverty-guidelines>

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
Wayne 19 County DHHS
BSC4
M. Schaefer
EQAD
L. Brewer-Walraven
MOAHR

Via-First Class Mail :

Petitioner

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