



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: March 1, 2024
MOAHR Docket No.: 23-009764
Agency No.: 102481722
Petitioner: Samira Bazzi

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 22, 2024. Petitioner participated and was unrepresented.¹ Fayteh Bazzi, Petitioner's daughter (hereinafter, "Daughter" testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

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. As of October 2023, Petitioner's daughter, Fayzeh Bazzi (hereinafter, "Daughter") received ongoing Medicaid benefits.
2. As of October 2023, Daughter was unmarried, not pregnant, not a caretaker to children, between the ages of 19 and 64 years, and not disabled. Also, Daughter was a tax filer with no dependents and was not a tax dependent to Petitioner.

¹ Petitioner's hearing requested stated a need for a translator. During the hearing, Petitioner waived her need for a translator and the hearing was conducted accordingly.

3. In November 2023, Daughter received the following gross weekly wages: \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]
4. On December 8, 2023, MDHHS determined Daughter to be eligible for MA benefits subject to a \$1,263 monthly deductible beginning January 2024 based on monthly income of \$ [REDACTED]
5. On December 15, 2023, Petitioner requested a hearing to dispute Daughter's MA eligibility. Petitioner additionally disputed Food Assistance Program (FAP) eligibility.
6. On February 22, 2024, during an administrative hearing, Petitioner withdrew her hearing request concerning FAP benefits.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP 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 the amount of FAP benefits received. Exhibit A, pp. 3-4. During the hearing, Petitioner testified that she did not need a hearing for FAP benefits and withdrew her hearing request concerning the FAP; MDHHS had no objections. Due to Petitioner's partial hearing request withdrawal, Petitioner's dispute concerning FAP benefits will be dismissed.

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 requested a hearing to dispute a determination of Daughter's MA eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated December 8, 2023, stated that Daughter was eligible for Medicaid subject to a monthly deductible of \$1,263 beginning January 2024.² Exhibit A, pp. 7-12. Determining whether MDHHS properly determined Daughter's MA eligibility requires a consideration of MA categories.

² Daughter was also approved for the MA category of Plan First. Plan First is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status. BEM 124 (July 2023) p. 1. Generally, its coverage is limited only to family planning services. (see Form DCH-2840-MSA)

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 (HMP) 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, as of the disputed benefit month, Daughter was aged 19-64 years, not pregnant, not disabled, and not a caretaker to minor children. Under the circumstances, Daughter's only potential MA category without a deductible or limited coverage 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.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

Daughter credibly testified she was a tax filer with no dependents. Petitioner acknowledged she did not claim Daughter as a tax dependent. Under the circumstances, Daughter's HMP benefit group size is one.⁷

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 MDHHS policy on determining benefit group size.

Daughter's only income derived from employment. Pay documents for Daughter listed the following gross weekly income beginning November 3, 2023: \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED] Exhibit A, pp. 28-31. Adding the income results in a total monthly gross income of \$ [REDACTED] MDHHS testified it calculated Daughter's income to be \$ [REDACTED] MDHHS was unable to provide any explanation for how Daughter's income was calculated. Given the evidence, Daughter's income is found to be \$ [REDACTED]

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 \$14,580.⁸ For Daughter to be eligible for HMP, the group's income would have to not exceed \$20,120.40 (\$1,676.70 per month). Daughter's monthly income of \$ [REDACTED] falls below the HMP income limit. Thus, Daughter is eligible for Medicaid, without a deductible, under the HMP. As a remedy, MDHHS will be ordered to reinstate Daughter's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning the amount of FAP benefits received. Concerning Petitioner's dispute of FAP 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 improperly determined Daughter's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Daughter's MA eligibility beginning January 2024 subject to the finding that MDHHS failed to establish that it properly terminated Daughter's MA eligibility due to excess income; and
- (2) Issue notice and benefit supplements, if any, in accordance with policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

⁸ <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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
**MDHHS-Wayne-17-
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Interested Parties
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B. Cabanaw
M. Schaefer
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MOAHR

Via-First Class Mail :

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