



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 20, 2024
MOAHR Docket No.: 23-009960
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 telephone hearing was held on February 12, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Denise Newsom, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.

4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner was an ongoing MA Healthy Michigan Plan (HMP) recipient.
7. On November 28, 2023, the Department received Petitioner's Redetermination and verification of assets showing a checking account with Chase Bank for himself showing a low balance of ██████████, a Coinbase cryptocurrency account with an estimated balance of ██████████, a 2012 Nissan Rogue valued at \$2,810.00, and a checking account for his wife with ██████████ Bank with an estimated balance of ██████████.
8. Petitioner was age ██████ at the time of his Redetermination.
9. On December 1, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that effective January 1, 2024, he was not eligible for MA benefits because his countable assets were higher than the amount allowed for the program.
10. On December 4, 2023, the Department received Petitioner's request for hearing disputing the Department's determination of MA coverage for himself.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

CONCLUSIONS OF LAW

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once

every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

MA Coverage

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was ineligible for MA coverage. Petitioner disputes this coverage.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (January 2020), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2020), p. 1; Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 1.2.

Since Petitioner is age ■■■, he is ineligible for HMP. Likewise, he is not pregnant or caring for a minor child; therefore, he is not eligible for these programs. Therefore, the only potential categories for which he may be eligible are SSI-related MA categories.

In this case, Petitioner disputes the Department's decision with respect to his MA eligibility as determined by the December 1, 2023 HCCDN. Asset eligibility is required for all SSI-related MA categories including G2S and all MSP categories. BEM 400 (July 2023), p. 6. Modified Adjusted Gross Income (MAGI) MA (HMP) categories do not have an asset test. *Id.* Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7. For MSP with a group size of two (because Petitioner is married), the asset limit effective January 1, 2024 was \$14,130.00. BEM 400, p. 8. For all other, SSI-related MA categories, including AD-Care and G2S and excluding QDWI, the asset limit was \$3,000.00 for a group size of two. *Id.* The Department is not required to verify assets when countable assets exceed the applicable asset limit based on a person's own statement of value. BEM 400, p. 61.

In this case, Petitioner wrote on his Redetermination that he had combined countable assets of ■■■■■. The Nissan Rouge is not a countable asset as it is excluded by policy.

BEM 400, p. 42. Petitioner provided verification of the bank account showing a low balance of [REDACTED]. He did not provide verification of his cryptocurrency Coinbase account or of his wife's bank account so his statements from the Redetermination are used. Therefore, Petitioner's total countable asset value is [REDACTED]. Because Petitioner's own statement of the value plus the verified value of his assets exceed the asset limits for G2S and AD-Care, the Department was not required to verify the asset and properly determined that he was ineligible for these programs. However, Petitioner's assets fall below the asset limit for a group size of two for MSP. Therefore, the Department did not properly determine Petitioner's eligibility for MSP based upon assets.

It is also notable that the Department failed to issue a decision regarding Petitioner's eligibility for Plan First (PF). The PF program benefit is limited to family planning services only such as contraceptive services and supplies, sexually transmitted infection services, vaccines and other preconception health services. It is a limited coverage, MAGI-related MA program available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level and there are no age or gender requirements for PF. If the Department determines that Petitioner is eligible for PF, he can choose to opt out of program coverage.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility effective January 1, 2024;
2. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge

PETITIONER'S APPEAL RIGHTS: You may ask the Michigan Office of Administrative Hearings and Rules (MOAHR) for a rehearing or reconsideration of this Hearing Decision. Your written request should include your name, the docket number from page 1 of this

Hearing Decision, an explanation of the specific reasons you are making the request, and any documents supporting your request. Send your request to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Your request must be **received** by MOAHR within 30 days of the Mailing Date of this Hearing Decision, or it will be untimely. Untimely requests will be dismissed.

You may also appeal this Hearing Decision to the circuit court. MOAHR does not provide legal assistance for appeals to the circuit court.

Via-Electronic Mail :

Interested Parties

MDHHS-Wayne-76-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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