



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], MI [REDACTED]

Date Mailed: March 18, 2024
MOAHR Docket No.: 24-000136
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 March 6, 2024. Petitioner did not participate. [REDACTED] Petitioner's spouse (hereinafter, "Spouse"), testified and participated as Petitioner's authorized hearing representative (AHR). 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. On [REDACTED] 2023, Spouse applied for MA benefits and reported residing only with Petitioner. Spouse reported that he and Petitioner were neither pregnant, caretakers to minor children, aged between 19 and 64 years, Medicare recipients, nor disabled.
2. As of November 2023, Petitioner's household's adjusted gross income was \$ [REDACTED]
3. On December 13, 2023, MDHHS denied MA benefits for Petitioner and Spouse.

4. On January 5, 2024, Petitioner's AHR requested a hearing to dispute the denial of MA benefits.
5. On January 10, 2024, MDHHS approved Petitioner and Spouse for the limited coverage MA category of Plan First beginning November 2023.

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's AHR requested a hearing to dispute a denial of full-coverage MA benefits. Exhibit A, p. 3. Petitioner and Spouse applied for MA benefits on [REDACTED] 2023. Exhibit A, pp. 6-12. A Health Care Coverage Determination Notice dated December 13, 2023 stated that Petitioner and Spouse were ineligible for various MA categories beginning November 2023. Exhibit A, pp. 13-16. On January 10, 2024 updated Petitioner's and Spouse's MA eligibility and approved both for the limited-coverage MA category of Plan First.¹ Exhibit A, pp. 19-21. Spouse disputed being only eligible for the limited MA coverage. 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 (October 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.*

Petitioner's application reported that Petitioner and Spouse were aged 19-64 years. It also reported that neither Petitioner nor Spouse were pregnant, disabled, Medicare

¹ Plan First is a limited-coverage MA category available to any United States citizen or individual with a valid immigration status. BEM 124 (July 2023) p. 1. Generally, its coverage is limited only to family planning services. (see Form DCH-2840-MSA)

recipients, nor a caretaker to minor children. Under the circumstances, Petitioner's and Spouse's only potential MA category with full MA coverage is the MAGI-related category of HMP. The denial notice stated Petitioner and Spouse were ineligible for HMP due to excess income. Exhibit A, pp. 13-16.

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.² 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.³

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁴ 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.⁵ There was no evidence of applicable expenses.

Petitioner's application reported that she and Spouse were tax filers with no dependents. Exhibit A, p. 10. Under the circumstances, Petitioner's and Spouse's HMP group size is two persons.⁶

In determining HMP eligibility, MDHHS relied on Petitioner's adjusted gross income of \$ [REDACTED] from a 2022 tax return. Exhibit A, pp. 17-18. Petitioner's application reported income from RSDI and wages for Spouse. Generally, MDHHS counts the gross RSDI benefit amount as unearned income.⁷ BEM 503 (January 2023), p. 29. Generally, for all programs, gross wages are countable.⁸ BEM 501 (January 2024) p. 7. Spouse's testimony acknowledged that \$ [REDACTED] accurately represented household income at the time of application.

² 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.

³ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

⁴ <https://www.investopedia.com/terms/a/agi.asp>

⁵ *Id.*

⁶ See BEM 211 for policy to determine group size.

⁷ 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.

⁷ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl>

⁸ See BEM 501 for the narrow exceptions which are not applicable to the present case.

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 2-person group residing in the United States is \$19,720.⁹ For Petitioner and Spouse to be eligible for HMP, the group's income would have to not exceed \$27,213.60 (\$22,627.80) per month). Petitioner's benefit group's gross monthly income exceeds the income limit for HMP. Thus, MDHHS properly denied Petitioner's and Spouse's HMP eligibility. Because Petitioner and Spouse are not potentially eligible for any other full Medicaid MA categories, MDHHS properly determined that Petitioner and Spouse were eligible only for the limited-coverage MA category of Plan First.

DECISION AND ORDER

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

CG/nr



Christian Gardocki

Administrative Law Judge

⁹ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

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
Wayne 17 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

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