



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



Date Mailed: March 14, 2024
MOAHR Docket No.: 24-000479
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 11, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, hearings facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's benefit group'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 December 2023, Petitioner, his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse"), and their daughter, [REDACTED] [REDACTED] (hereinafter, "Daughter") were ongoing recipients of MA benefits under the MA category of Healthy Michigan Plan (HMP).
2. As of December 2023, Petitioner received \$939 in gross monthly Retirement, Survivors, Disability Insurance (RSDI) as a retired individual.
3. As of December 2023, Spouse received \$ [REDACTED] in gross monthly wages.

4. As of December 2023, Daughter received \$ [REDACTED] in gross monthly wages.
5. On December 4, 2023, Petitioner submitted to MDHHS redetermination documents for MA benefits and reported a household including Petitioner, Spouse, and Daughter. Petitioner also reported that all household members were not pregnant, not a caretaker to children, aged between 19 and 64 years, and not disabled. Petitioner also reported that he was a tax filer and that Daughter was a tax dependent.
6. On January 5, 2024, MDHHS sent Petitioner notice that MA for Petitioner, Spouse, and Daughter would end February 2024 due to excess income for Healthy Michigan Plan (HMP).
7. On January 17, 2024, 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 for himself, Spouse, and Daughter. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated November 17, 2023 stated that Petitioner's family were each ineligible for various MA categories beginning February 2024. Exhibit A, pp. 25-31. Determining whether MDHHS properly terminated Petitioner's family'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.*

It was not disputed that, as of the disputed benefit month, Petitioner, Spouse, and Daughter were each aged 19-64 years, not pregnant, not disabled, and not a caretaker to minor children. Under the circumstances, Petitioner's family's only potential unlimited coverage MA category is the MAGI-related category of HMP.¹ The termination notice stated Petitioner, Spouse, and Daughter 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.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.

On redetermination documents returned to MDHHS on December 4, 2023, Petitioner reported being married to Spouse; Petitioner additionally reported that Daughter was a tax dependent. Exhibit A, pp. 15-22. Under the circumstances, Petitioner's HMP group size is three persons.⁶

In determining each group member's MA eligibility, MDHHS testified it factored \$939 in gross monthly RSDI for Petitioner. Generally, MDHHS counts the gross RSDI benefit amount as unearned income.⁷ BEM 503 (January 2023), p. 29. All RSDI income is countable to tax-filers and adults not claimed as dependents. *Id.*, 30. Petitioner did not

¹ Plan First is an MA category potentially available to all Michigan residents; however, it is a limited coverage MA category which only covers expenses such as family planning services (see BEM 124).

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 MDHHS inexplicably factored only a benefit group of two persons in determining Spouse's HMP eligibility. Exhibit A, p. 26. See BEM 211 for MDHHS 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>

dispute the amount of gross RSDI factored by MDHHS. For purposes of HMP, Petitioner's countable income is \$939.

MDHHS also factored gross monthly wages of \$[REDACTED] for Spouse and \$[REDACTED] for Daughter.⁸ Petitioner did not dispute the gross monthly wage amounts. Generally, for all programs, gross wages are countable.⁹ BEM 501 (January 2024) p. 7. Adding the wages results in monthly gross wage totaling \$7,300. Adding Petitioner's RSDI results in a total gross income of \$[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 2024 federal poverty level for a 3-person group residing in the United States is \$25,820.¹⁰ For Petitioner, Spouse, and Daughter to be eligible for HMP, the group's income would have to not exceed \$35,631.60 (\$2,969.30 per month).

Petitioner's gross monthly income of \$[REDACTED] substantially exceeds the income limit for HMP. Thus, MDHHS properly terminated Petitioner's HMP eligibility. Because Petitioner, Spouse, and Daughter are not eligible for any other MA categories, MDHHS properly terminated Petitioner's MA eligibility.¹¹

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, Spouse's, and Daughter's MA eligibility beginning February 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁸ Pay documents for Spouse were presented. Exhibit A, pp. 23-24. The documents were not considered in the above analysis because Petitioner acknowledged that MDHHS correctly calculated gross monthly wages for Spouse.

⁹ See BEM 501 for the narrow exceptions which are not applicable to the present case.

¹⁰ <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

¹¹ Petitioner reapplied for MA benefits on February 5, 2024. MDHHS testified that Petitioner's February 5, 2024 application included a claim of disability. Petitioner submitted to MDHHS medical documents supporting a claim of disability. Exhibit A, pp. 8-14. Petitioner's claim of disability was not considered in the above analysis because there was no evidence that Petitioner claimed to be disabled before MDHHS terminated Petitioner's MA eligibility.

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
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Interested Parties
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Via-First Class Mail :

Petitioner
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