



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 6, 2024
MOAHR Docket No.: 24-000625
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 line on February 26, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings coordinator.

ISSUE

The issue is whether MDHHS timely processed Petitioner's spouse'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 November 2023, Petitioner and her spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse") were ongoing recipients of MA benefits. Spouse's birthdate was [REDACTED] 1959.
2. On December 6, 2023, MDHHS determined that beginning December 2023, Petitioner and Spouse were eligible only for the limited coverage Medicaid category of Plan First.
3. As of December 2023, Spouse was under [REDACTED] years and [REDACTED] months of age.

4. On January 22, 2024, Petitioner requested a hearing to dispute MA eligibility for herself and Spouse. Petitioner additionally disputed Food Assistance Program (FAP) eligibility.
5. On January 30, 2024, MDHHS updated Petitioner's income and determined that Petitioner was eligible to receive Medicaid under the category of Healthy Michigan Plan (HMP).
6. On February 26, 2024, during an administrative hearing, Petitioner withdrew her dispute concerning FAP benefits and MA benefits for herself.

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 FAP eligibility. Exhibit A, pp. 3-5. During the hearing, Petitioner testified she had no dispute concerning FAP benefits and sought to partially withdraw her hearing request accordingly. MDHHS had no objections to Petitioner's partial hearing request withdrawal. Based on 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 also requested a hearing to dispute a determination of MA benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated December 6, 2023, stated that Petitioner and Spouse were eligible beginning December 2023 only for the limited coverage Medicaid category of Plan First. Exhibit A, pp. 7-9.

After Petitioner requested a hearing, MDHHS updated Petitioner's MA eligibility. MDHHS testimony acknowledged that Petitioner was eligible to receive Medicaid under the MA category of Healthy Michigan Plan (HMP). MDHHS's testimony was consistent with a Health Care Coverage Determination Notice dated January 30, 2024, stating Petitioner was approved for MA benefits beginning December 2023. Exhibit A, pp. 19-21. As a result of Petitioner's updated MA eligibility, Petitioner withdrew the dispute over her own MA eligibility. The dispute over Petitioner's MA eligibility will be dismissed leaving Spouse's MA eligibility as the only unresolved dispute.

Concerning Spouse's MA, MDHHS testified it was unable to update MA eligibility. MDHHS testified that unlike Petitioner, Spouse was only eligible for SSI-related MA categories which require proof of assets. As a result, MDHHS had to request verification of assets from Petitioner before Spouse's MA eligibility could be determined. As of the date of hearing, MDHHS testified that Spouse's MA was closed, but pending for asset verifications. Petitioner found MDHHS's testimony to be an unsatisfactory explanation for Spouse's absence of active MA benefits. To determine if MDHHS's actions were proper, Spouse's potential MA categories must be considered.

Medicaid is also known as MA. BEM 105 (January 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* 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.* Medicaid 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.*

MA categories based on MAGI methodology do not require proof of assets. BEM 400 (January 2024) p. 3. MDHHS is to consider assets at application when determining MA eligibility for SSI-Related categories. *Id.*, p. 61.

MDHHS contended that Spouse was ineligible for MA as of December 2023 under the category of HMP due to Spouse's age. As of December 2023, Spouse was aged 64 years and 10 months. Being aged 19-64 years are among the requirements for HMP. BEM 137 (January 2024) p. 1. Because Spouse was under 65 years of age as of December 2023, MDHHS should not have deemed Spouse ineligible for HMP benefits due to age. Because Spouse was potentially eligible for HMP, a MAGI category, assets were not required to determine Spouse's MA eligibility. Granted, MDHHS reasonably requested proof of assets from Petitioner in anticipation of Spouse turning 65 years old. However, MDHHS provided no proper basis to deny MA benefits to Spouse before Spouse turned 65 years of age. Accordingly, MDHHS's actions are reversed. As a remedy, Petitioner is entitled to a reprocessing of Spouse's MA eligibility.¹

¹ Presumably, Spouse is in the same HMP benefit group as Petitioner and is eligible for MA benefits. However, it is theoretically possible for Spouse to be ineligible for HMP due to a reason apart from his age. Thus, MDHHS will be ordered to determine/reprocess Spouse's eligibility rather than to reinstate Spouse's MA benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her disputes concerning MA for herself and FAP benefits. Concerning MA for herself and 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 terminated Spouse's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Spouse's MA eligibility beginning December 2023 subject to the finding that MDHHS failed to establish that Spouse was ineligible for HMP due to age; and
- (2) Issue supplements and notice, if any, in accordance with policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

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
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**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
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Via-First Class Mail :

Petitioner
[REDACTED], MI [REDACTED]