



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

Date Mailed: April 2, 2024
MOAHR Docket No.: 24-001959
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 27, 2024. Petitioner was present but did not testify. [REDACTED] [REDACTED] Petitioner's daughter, (hereinafter, "Daughter") testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Karina Littles, manager.

ISSUE

The issue is whether MDHHS properly determined 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 December 28, 2023, MDHHS received redetermination documents from Petitioner reporting a household including Petitioner; his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse"); Daughter, and two minor children.
2. On January 9, 2024, MDHHS sent notice that Petitioner, Spouse, and Daughter were eligible for the limited-coverage MA category of Plan First beginning February 2024.

3. As of January 2024, Daughter received \$ [REDACTED] in gross biweekly income.
4. As of January 2024, Petitioner and Spouse were tax filers with three tax dependents which included AHR.
5. In January 2024, Petitioner made \$ [REDACTED] in monthly gross wages.
6. As of January 2024, Petitioner, Spouse, and Daughter were aged 19-65 years and not disabled.
7. On February 20, 2024, Daughter disputed MA eligibility for Petitioner, Spouse, and herself. Daughter also disputed Food Assistance Program (FAP) eligibility.
8. On February 21, 2024, MDHHS determined Petitioner, Spouse, and Daughter to be eligible for the limited-coverage MA category of Plan First beginning April 2024.
9. On March 27, 2024, Daughter withdrew the hearing request disputing 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. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Daughter (also Petitioner's AHR) requested a hearing, in part, to dispute Petitioner's FAP eligibility. Exhibit A, pp. 3-5. During the hearing, Daughter stated that MDHHS favorably resolved Petitioner's dispute by approving FAP benefits, and a hearing was no longer needed for FAP benefits.¹ Based on the partial withdrawal of the hearing request, Petitioner's hearing request will be dismissed concerning FAP benefits.

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.

¹ Daughter's testimony was consistent with a Notice of Case Action dated February 21, 2024, approving Petitioner for \$490 ion monthly FAP benefits beginning February 2024. Exhibit A, pp. 22-27.

A hearing was also requested to dispute MA eligibility for Petitioner, Spouse, and Daughter. Exhibit A, pp. 3-5. MDHHS testified that it sent a Health Care Coverage Determination Notice (HCCDN) on January 9, 2024, stating that Petitioner, Spouse, and Daughter were eligible only for the limited-coverage MA category of Plan First beginning February 2024.² MDHHS also sent notice on February 21, 2024, stating that Petitioner, Spouse, and Daughter were eligible beginning April 2024 for Plan First. Petitioner's AHR disputed that her, Petitioner, and Spouse had a limited-coverage MA category.

The Medicaid program includes several sub-programs or categories. BEM 105 (January 2020) 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.* 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 are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

MDHHS received redetermination documents on December 28, 2023 stating that Petitioner, Spouse, and Daughter were not pregnant, not disabled, not a recipient of Medicare, and aged 19-65 years. Exhibit A, pp. 7-14. Under the circumstances, Petitioner, Spouse, and Daughter are only ineligible for all SSI-related categories. The MAGI category with unlimited MA coverage and the highest income limit for which the group could qualify is HMP. MDHHS testimony stated that group 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

² 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)

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.

income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.⁴

Modified adjusted gross income 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

Group composition for MAGI-related categories follows tax filer and tax dependent rules. BEM 211 (July 2019) p. 1. Generally, the household for an individual who is a tax dependent of someone else, consists of the household of the tax filer claiming the individual as a tax dependent. *Id.*, p. 2. Petitioner reported to MDHHS that he filed taxes jointly with Spouse and those three children, including AHR, were tax dependents. Exhibit A, p. 12. Under the circumstances, Petitioner's MAGI group size is five persons.

MDHHS testified that it determined Petitioner's MA eligibility based on \$[REDACTED] in gross monthly income. During the hearing, Daughter acknowledged that Petitioner's monthly gross monthly employment income was \$[REDACTED]

MDHHS testified it calculated \$1,000 in gross monthly wages for Daughter. Documents from Daughter's employer listed biweekly pays to Daughter of \$[REDACTED] Exhibit A, pp. 15-18. Multiplying the biweekly pays by two results in \$1,000 in gross monthly wages.⁸ Adding Petitioner's and Daughter's income results in a total monthly income of \$[REDACTED]

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014) p. 1. Also, MDHHS applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of the FPL. The 2024 federal poverty level is \$36,580 for a 5-person group.⁹ Multiplying the FPL by 1.38 results in an income limit of \$50,480.40 (\$4,206.70 per month). Petitioner's group's income exceeded the HMP income limit. Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First (see BEM 124). Given the evidence, MDHHS properly terminated HMP benefits for Petitioner, Spouse, and Daughter due to excess income.

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 MDHHS testified it determined Petitioner's income from his gross wages in December 2023 which were (dropping cents) \$[REDACTED] \$[REDACTED] \$[REDACTED] \$[REDACTED] and \$[REDACTED] MDHHS could not explain how it calculated \$[REDACTED] in monthly income from Petitioner's weekly income.

⁸ Pay documentation dated December 4, 2023 for Daughter's employment listed gross biweekly wages of \$728. Exhibit A, p. 15. Daughter testified that her employer issued more than \$500 in wages erroneously and that \$1,000 was an accurate reflection of her monthly income.

⁹ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner's AHR withdrew the dispute concerning FAP benefit eligibility. Concerning 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 properly determined Petitioner, Spouse, and Daughter to be ineligible for Medicaid under HMP beginning February 2024. Concerning MA for Petitioner, Spouse, and Daughter, the actions of MDHHS are **AFFIRMED**.

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
Caryn Jackson
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12140 Joseph Campau
Hamtramck, MI 48212
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Interested Parties
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Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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