



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: May 8, 2024
MOAHR Docket No.: 24-003005
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 April 24, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, lead 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. As of December 2023, Petitioner was a member of a household that included his spouse, [REDACTED] (hereinafter, "Spouse") and three adult children: [REDACTED] (Child1), [REDACTED] (Child2), and [REDACTED] (Child3). Petitioner's household also included a minor child, [REDACTED] (Child4).
2. On December 4, 2023, MDHHS mailed Petitioner a Redetermination form for a case number on which Petitioner received MA benefits. The due date to return the Redetermination form was January 4, 2024.

3. On an unspecified date in December 2023, MDHHS sent Petitioner a second Redetermination form concerning MA benefits for Petitioner's wife and children.
4. As of January 2024, Petitioner was married, between the age of 19-65 years, not pregnant, not disabled, and not a Medicare recipient.
5. On an unspecified date, Petitioner returned to MDHHS a Redetermination form concerning his own MA benefits.
6. As of January 27, 2024, MDHHS did not know if Petitioner or Child1 worked for [REDACTED] [REDACTED] [REDACTED] (hereinafter, "Employer").
7. On January 27, 2024, MDHHS approved Petitioner for MA under Plan First beginning February 2024 based on Petitioner working for Employer and a benefit group of three persons that also included Spouse and Child4.
8. On February 16, 2024, MDHHS terminated the MA eligibility of Child1 and Child3 beginning March 2024 due to Petitioner's alleged failure to return a Redetermination form.
9. On March 15, 2024, Petitioner requested a hearing to dispute the determination of MA benefits for himself.

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, in part, to dispute a termination of his MA benefits. Exhibit A, pp. 3-4. MDHHS did not present written notice explaining when and why Petitioner's MA ended.¹ MDHHS testified that a Health Care Coverage Determination Notice dated January 27, 2024, stated that Petitioner was approved for Plan First beginning February 2024.²

¹ A Health Care Coverage Determination Notice dated February 16, 2024 addressed the closure of Petitioner's spouse and child. Exhibit A, pp. 15-18.

² Plan First Medicaid is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status. BEM 124 (July 2023) p. 1. Generally, Plan First coverage is limited to family planning services such as birth control. (see form DCH-2840-MSA)

The MA program includes several sub-programs or categories. BEM 105 (January 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 (HMP) 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 Petitioner was aged 19-65 years, not pregnant, not disabled, and not a recipient of Medicare. Under the circumstances, Petitioner's potential Group 1 MA category with the highest income limit and unlimited MA coverage is the MAGI-related category of HMP. MDHHS stated that Petitioner 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 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.⁴

MAGI 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. MDHHS testified it properly counted an MA benefit group size including Petitioner, his spouse, and a minor child. For purposes of

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.

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.*

this decision, it will be accepted that MDHHS properly counted a group of three persons.

MDHHS factored \$1,700 in monthly donations for Petitioner. Petitioner's testimony acknowledged that he received \$1,700 in monthly donations from his mother.

MDHHS also testified that Petitioner received wages from Employer. Petitioner responded that he does not work for Employer, Daughter does. MDHHS failed to present any evidence indicating otherwise. Given the evidence, Daughter received wages from Employer. Because Daughter was not a benefit group member, MDHHS failed to establish it properly included wages from Employer in determining Petitioner's MA eligibility.

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 for a 3-person group residing in Michigan is \$25,820.⁷ Multiplying the FPL by 1.38 results in an income limit of \$35,631.60 (\$2,969.30 per month). Petitioner's established gross monthly income of \$1,700 did not exceed the HMP income limit.⁸ Given the evidence MDHHS failed to establish that it properly determined Petitioner's MA eligibility. As a remedy, Petitioner is entitled to a reprocessing of benefits.

MDHHS not only terminated Petitioner's MA eligibility, but also the eligibility of at least Child1 and Child3. A Health Care Coverage Determination Notice dated February 16, 2024, stated that MA benefits for Child1 and Child3 would end March 2024 due to Petitioner failing to timely return redetermination documents.⁹ Exhibit A, pp. 15-18.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The process includes a thorough review of all eligibility factors.¹⁰ *Id.* For all programs, MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A Redetermination form is considered complete when all sections are completed. *Id.* p. 11. MDHHS sends timely notice of MA benefit closure if documents are not timely returned. *Id.*, p. 17. MA benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. *Id.*, p. 4.

It was not disputed that MDHHS mailed Petitioner a Redetermination form on December 4, 2023, with a due date to return of January 4, 2024. Exhibit A, pp. 6-14. MDHHS

⁷ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁸ Presumably, the income calculated by MDHSH was less than the income limit for Plan First.

⁹ The notice also stated that Child1 and Child3 do not meet program requirements. MDHHS presented no evidence justifying closure based on not meeting program requirements.

¹⁰ For Medicaid, an annual review of all eligibility programs is also referred to as a "renewal". BAM 210 (October 2022) p. 1.

claimed Petitioner never returned the form. Petitioner testified he returned two Redetermination forms: one concerning his MA eligibility, the other concerning MA benefits for his family. For purposes of this decision, it will be accepted that MDHHS received the Redetermination form to continue Petitioner's MA benefits, but not his family's.

MDHHS contended that the returned Redetermination form for Petitioner could not be used for Petitioner's family because the cases numbers were different. MDHHS's contention was not supported by any known policy. Furthermore, MDHHS testimony acknowledged it could not cite any information on the allegedly unreturned Redetermination form that would not have been on the returned Redetermination form. MDHHS cannot terminate MA benefits for a failure to return a Redetermination form when it possessed a Redetermination form with all needed information, albeit with a different case number.

Given the evidence, MDHHS improperly terminated MA benefits for Child1 and Child3 beginning March 2024. As a remedy, MDHHS will be ordered to reprocess the MA benefits for Child1 and Child3.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to determine Petitioner's, Child1's, and Child3'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 Petitioner's MA eligibility beginning February 2024 subject to the finding that it failed to establish that Petitioner had excess income for MA benefits;
- (2) Redetermine Child1's and Child3's MA eligibility beginning March 2024 subject to the finding that MDHHS may redetermine MA benefits for Petitioner's family based on the Redetermination form concerning Petitioner's MA eligibility; and
- (3) 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
Caryn Jackson
Wayne-Hamtramck-DHHS
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties
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BSC4
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Via-First Class Mail :

Petitioner
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