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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
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DIRECTOR

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

Date Mailed: May 15, 2024
MOAHR Docket No.: 24-003156
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 May 2, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by LaShona Callen, supervisor, and Dionna Davis, specialist.

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. As of March 2024, Petitioner was an ongoing recipient of MA benefits and an employee of [REDACTED] [REDACTED] [REDACTED] (hereinafter, "Employer1")
2. On March 2, 2024, Petitioner reported to MDHHS losing employment with [REDACTED] [REDACTED] (Employer2) on February 16, 2024.
3. On March 26, 2024, Petitioner requested a hearing to dispute MA benefits.

4. On March 27, 2024, MDHHS determined Petitioner was ineligible for MA benefits beginning May 2024 due to excess income and Petitioner's wages from Employer2.

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 BAM, BEM, and RFT.

Petitioner requested a hearing to dispute MA eligibility.¹ Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated March 27, 2024, stated that Petitioner was ineligible for Medicaid beginning May 2024. Exhibit B, pp. 1-4.

The Medicaid program includes several sub-programs or categories. BEM 105 (January 2024) 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 (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.*

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.*

The evidence suggested that Petitioner, at the time of the disputed benefit month, was not pregnant, not disabled, not a recipient of Medicare, and aged 19-65 years.² Under the circumstances, Petitioner is ineligible for all SSI-related MA categories. The MAGI category with unlimited MA coverage and the highest income limit for which the group could qualify is HMP. MDHHS determined Petitioner was ineligible for HMP due to excess income. Exhibit B, p. 2.

¹ A Health Care Coverage Determination Notice dated March 8, 2024, terminated Petitioner's Medicare Savings Program (MSP) eligibility. Exhibit A, pp. 37-39. Petitioner did not dispute MSP eligibility though the closure notice likely prompted Petitioner's hearing request which was submitted before the notice terminating Medicaid.

² The evidence also suggested that Petitioner was previously disabled, but no longer was.

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 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. The group composition for a tax filer includes a spouse and any dependents. The evidence suggested that Petitioner was unmarried and without dependents. Under the circumstances, Petitioner's MAGI-MA group size is one person.

The only evidence of the income calculated by MDHHS was the termination notice stating that Petitioner's annual income was \$ [REDACTED] Exhibit B, p. 2. MDHHS acknowledged that it calculated income based on Petitioner's two jobs which included income from Employer2. However, Petitioner submitted to MDHHS on March 2, 2024, documentation that she was not working for Employer2 as of February 16, 2024. Exhibit A, pp. 6-7. Petitioner later sent MDHHS additional documentation reporting the same. Exhibit A, pp. 8-9. MDHHS failed to explain why it would factor wages that Petitioner reported as stopped.⁷ Given the evidence, MDHHS improperly included Petitioner's wages for Employer2 in determining Petitioner's MA eligibility.

MDHHS presented one pay document listing Petitioner's wages from Employer1. Additionally, Petitioner testified she worked for a school district and that she only received earnings when classes were in session.⁸ MDHHS failed to establish which documents were used to determine Petitioner's income. MDHHS could also not state

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.*

⁷ MDHHS suggested that Petitioner needed to verify that wages from Employer2 ended. If MDHHS required verification from Employer2, it should have requested it via Verification Checklist (see BAM 210). MDHHS testimony acknowledged that it did not request verification of stopped wages from Petitioner.

⁸ Petitioner presented a school year calendar showing when classes were in session. Exhibit 1, pp. 1-3.

how much in wages from Employer1 were factored in determining MA eligibility. In lieu of such evidence, it cannot e stated whether MDHHS properly determined Petitioner's wages from Employer1.

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 1-person group residing in Michigan is \$15,060.⁹ Multiplying the FPL by 1.38 results in an income limit of \$20,782.80 (\$1,731.90).

Because the evidence failed to establish Petitioner's wages from Employer1, it cannot be found whether Petitioner was income-eligible to receive MA benefits. However, the evidence did establish that MDHHS wrongly determined that Petitioner was ineligible after failing to follow-up on Petitioner's reporting of stopped wages from Employer2. As a remedy MDHHS will be ordered to reprocess Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's MA eligibility beginning May 2024 subject to the finding that Petitioner reported to MDHHS on March 2, 2024, that wages from Employer2 ended; and
- (2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

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

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
Denise Key-McCoggle
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Redford, MI 48239
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Interested Parties
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Via-First Class Mail :

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[REDACTED]
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