



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: May 28, 2024  
MOAHR Docket No.: 24-003560  
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 May 2, 2024. Petitioner did not participate. [REDACTED] Petitioner's spouse (hereinafter, "Spouse") testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Sabrina Morris, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Medicaid (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 February 2024, Petitioner was an ongoing recipient of unlimited-coverage Medicaid.
2. As of February 2024, Spouse received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,654.
3. On February 2, 2024, Petitioner submitted to MDHHS a Redetermination form reporting that she was 19-65 years of age, married, not pregnant, not a caretaker to a minor child, and not a Medicare recipient.

4. On February 2, 2024, MDHHS received Petitioner's 2023 tax documents reporting a tax group including Spouse and a dependent child, along with an adjusted gross annual income of \$ [REDACTED] from self-employment.
5. On March 26, 2024, Spouse requested a hearing to dispute the determination of Petitioner's MA eligibility.
6. On April 8, 2024, MDHHS determined Petitioner was eligible for the limited-coverage MA category of Plan First beginning April 2024.

### **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).

Spouse requested a hearing to dispute a determination of Petitioner's MA eligibility. Exhibit A, pp. 4-5. MDHHS testified that a Health Care Coverage Determination Notice dated April 8, 2024, stated that Petitioner was eligible for the limited coverage MA category of Plan First beginning April 2024.<sup>1</sup>

Medicaid is also known as MA. BEM 105 (October 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 (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.*

Petitioner submitted to MDHHS a Redetermination form on February 2, 2024 which reported she was between the ages of 21-65 years, not pregnant, not a caretaker to minor children, and not a Medicare recipient. Exhibit A, pp. 7-13. Given the

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<sup>1</sup> Written notice of the disputed determination was not presented. Instead, MDHHS presented a Health Care Coverage Determination Notice dated February 21, 2024 concerning the Medicaid eligibility of Spouse and one of Petitioner's children. Exhibit A, pp. 21-25

circumstances, Petitioner is potentially eligible for full-coverage Medicaid only through the MAGI-related category of HMP.

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

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. Tax records verified that Petitioner and Spouse were married and claimed one tax dependent. As a married tax filer with a dependent, Petitioner's HMP benefits group is three persons.

It was not disputed that Spouse received \$1,654 in gross monthly RSDI. Generally, MDHHS counts the gross RSDI benefit amount as unearned income.<sup>6</sup> BEM 503 (January 2023), p. 29. All RSDI income is countable to tax-filers and adults not claimed as dependents. *Id.*, 30. The evidence established countable income of \$1,654 from RSDI.

Petitioner received wages from self-employment. For self-employment expenses, MDHHS generally uses the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502 (October

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<sup>2</sup> 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.

<sup>3</sup> [https://www.michigan.gov/documents/mdhhs/SPA\\_17-0100\\_Approved\\_638230\\_7.pdf](https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf)

<sup>4</sup> <https://www.investopedia.com/terms/a/agi.asp>

<sup>5</sup> *Id.*

<sup>6</sup> 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.

<sup>6</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl>

2019) p. 3. However, for MAGI-related MA, MDHHS uses adjusted gross income as declared on the federal tax return. *Id.* Petitioner's tax return listed gross self-employment of \$ [REDACTED] Exhibit A, pp. 14-20. Dividing by 12 results in gross monthly self-employment income of \$ [REDACTED] (dropping cents). Adding the income to Spouse's RSDI results in countable income of \$3,853.

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 \$25,820 for a 3-person group.<sup>7</sup> Multiplying the FPL by 1.38 results in an income limit of \$35,631.60 (\$2,969.30). Petitioner's group's monthly income of \$ [REDACTED] exceeded the HMP income limit. Presumably, the group's income is within the income guidelines of the limited coverage MA category of Plan First.<sup>8</sup> Given the evidence, MDHHS properly determined Spouse to be eligible only for the limited-coverage MA category of Plan First.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible only for the limited-coverage MA category of Plan First beginning April 2024. 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

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

<sup>8</sup> Eligibility for Plan First requires an income within 195% of the federal poverty level BEM 124 (July 2023) p. 2.

**Via-Electronic Mail :**

**DHHS**

Yvonne Hill  
Oakland County DHHS Madison  
Heights Dist.  
30755 Montpelier Drive  
Madison Heights, MI 48071  
**MDHHS-Oakland-DistrictII-  
Hearings@michigan.gov**

**Interested Parties**

Oakland 2 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Authorized Hearing Rep.**

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

**Petitioner**

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