



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], MI [REDACTED]

Date Mailed: July 26, 2024  
MOAHR Docket No.: 24-003641  
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 June 26, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Remy Williams, 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 January 2024, Petitioner was aged 19-65 years, not pregnant, not disabled, the only member of the household, and an ongoing recipient of MA benefits under the category of Healthy Michigan Plan (HMP).
2. On January 30, 2024, Petitioner applied for Food Assistance Program (FAP) benefits and reported ongoing employment income as a tutor based on 30 hours per week and \$ [REDACTED] per hour.
3. On February 21, 2024, during an interview, Petitioner reported working as a tutor for 35 hours per week and \$ [REDACTED] per hour. Petitioner also reported that his

employment was seasonal and that he does not work when school is not in session.

4. On February 28, 2024, MDHHS terminated Petitioner's MA eligibility beginning April 2024 based on annual wages of \$ [REDACTED]
5. On March 28, 2024, Petitioner requested a hearing to dispute the termination of MA benefits and claimed an annual income of \$ [REDACTED]

### **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 to dispute a termination of MA benefits Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated February 28, 2024, stated that Petitioner was ineligible for MA benefits beginning April 2024. Exhibit A, pp. 27-30.

The MA program includes several sub-programs or categories. BEM 105 (October 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 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.*

As of the disputed benefit month of April 2024, Petitioner was aged 19-65 years, not pregnant, not disabled, and not a caretaker to minor children.<sup>1</sup> Under the circumstances, Petitioner's potential category with full MA coverage and the highest income limit is the MAGI-related category of HMP. The termination notice stated that Petitioner was ineligible for HMP due to excess income. Exhibit A, p. 28.

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<sup>1</sup> Petitioner contended that his various medical problems and/or need for medical coverage support eligibility for MA. Exhibit A, pp. 17-18. Medical problems (without a claim of disability) and/or a need for MA benefits is not relevant in determining MA eligibility.

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 elected to determine HMP eligibility based on current monthly income.<sup>3</sup>

MAGI 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> There was no evidence of applicable expenses.

Petitioner testified he is a tax filer with no dependents. Under the circumstances, Petitioner's HMP group size is two persons.<sup>6</sup>

Petitioner's only income derived from employment as a tutor which began in January 2024. On February 21, 2024, MDHHS interviewed Petitioner for FAP benefits. MDHHS documented that Petitioner reported working 35 hours per week and \$█ per hour. Multiplying Petitioner's hourly wage and hours results in weekly income of \$700. Multiplying the income by 52 results in an annual income of \$36,400 (\$3,033 per month).<sup>7</sup> MDHHS, without explanation, calculated a slightly smaller annual income of \$36,288. Exhibit A, p. 28.

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014) p. 1. MDHHS applies a 5% income disregard when the disregard is the difference between a client's eligibility and ineligibility. BEM 500 (July 2017) p. 5. The disregard functionally renders the HMP income limit to be 138% of the FPL. The 2024 federal poverty level for a 1-person group residing in the United States is \$15,060.<sup>8</sup> For Petitioner to be eligible for HMP, Petitioner's income would have to not exceed \$20,782.80

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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> See BEM 211 for MDHHS policy to determine group size.

<sup>7</sup> After MDHHS sent Petitioner notice of a denial, Petitioner submitted biweekly check stubs to MDHHS dated March 15 and March 29, 2024 for respective gross income amounts of \$█ and \$█. Adding the income results in a total income of \$█. MDHHS testified it calculated a smaller income (thus, more favorable for Petitioner) of \$2,528.

<sup>8</sup> <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>

(\$1,731.90 per month). MDHHS terminated Petitioner's eligibility due to annual income exceeding the limit.

Petitioner responded that his income does not exceed the HMP income limit.<sup>9</sup> Petitioner testified that he told MDHHS during the interview dated February 21, 2024 that his income varies and is dependent upon when school is in session. Petitioner's statements were consistent with documents he submitted with his hearing request dated March 28, 2024. Exhibit A, pp. 9-15. For example, a letter from Petitioner's employer stated that Petitioner will generally not work when school is not in session. Exhibit A, p. 10. The evidence established that Petitioner's wages are seasonal.

For HMP, MDHHS generally considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018.<sup>10</sup>

Petitioner's FAP benefit application dated January 30, 2024, did not include a reporting of annual income or seasonal employment. Exhibit A, pp. 20-26. However, it is presumed that Petitioner could not report an annual income or seasonal employment because he completed an application for FAP benefits, not MA benefits. The evidence established that Petitioner reported to MDHHS on February 21, 2024, seasonal employment resulting in annual wages of less than \$36,288. Because of Petitioner's reporting, MDHHS should have calculated Petitioner's annual income based on "reasonably predictable changes in income" within the following year. MDHHS's failure to do so is reversible error.

Even if Petitioner did not report seasonal employment to MDHHS until the hearing request date of March 28, 2024, MDHHS would be obliged to update Petitioner's MA eligibility based on the reported change. As of the hearing date, there was no evidence that MDHHS updated Petitioner's income based on Petitioner's employment being seasonal.

Given the evidence, MDHHS improperly terminated Petitioner's MA eligibility by failing to factor Petitioner's seasonal wages. As a remedy, Petitioner is entitled to a reinstatement of MA benefits and a processing of MA eligibility based on seasonal employment and "reasonably predictable changes in income".<sup>11</sup>

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<sup>9</sup> Petitioner's hearing request specified that his annual income is \$ [REDACTED] Exhibit A, pp. 3-4

<sup>10</sup>[https://www.michigan.gov/mdhhs//media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs//media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

<sup>11</sup> An order to reprocess Petitioner's MA eligibility does not equate to a finding that Petitioner is eligible to receive MA benefits. The determination of Petitioner's MA eligibility based on seasonal wages is left for MDHHS.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated 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) Reinstate Petitioner's MA eligibility beginning April 2024 subject to the finding that Petitioner reported to MDHHS on February 21, 2024, that his employment is seasonal;
- (2) Issue benefit supplements and notice, if any, in accordance with policy.

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

CG/nr



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**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**  
Richard Latimore  
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**MDHHS-Wayne-57-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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[REDACTED], MI [REDACTED]