



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: November 22, 2023
MOAHR Docket No.: 23-006340
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on November 9, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Shenail Shina, Eligibility Specialist.

ISSUE

Did MDHHS properly close Petitioner's Medical Assistance/Medicaid (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminates the continuous coverage requirement effective March 31, 2023.

5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. Petitioner is an ongoing MA recipient.
7. Petitioner does not receive Medicare.
8. On August 29, 2023, MDHHS received Petitioner's timely submitted redetermination of MA benefits. Petitioner reported that she is a group size of one and is employed at TTEC/Percepta (Employer) (Exhibit A, pp. 7-13).
9. On September 15, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that she was no longer eligible for MA coverage due to excess income, effective October 1, 2023 (Exhibit A, pp. 15-18).
10. On September 25, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her MA case (Exhibit A, pp. 4-5).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an

individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

Upon reviewing Petitioner's eligibility criteria at redetermination, MDHHS concluded that Petitioner was no longer eligible for MA coverage, due to excess income. Petitioner disputes the closure of her MA case.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2021), p. 1; BEM 137 (June 2020), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

Upon review, Petitioner is unable to receive MA under an SSI-related category because she is not aged (█ or older), blind, disabled, or entitled to Medicare or formerly blind or disabled. Therefore, MDHHS properly reviewed Petitioner's eligibility based on Modified Adjusted Gross Income (MAGI) methodology for MA coverage under the MAGI categories: children under █ parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. HMP provides health care coverage for individuals who:

- Are █ years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- **Have income at or below 133 percent Federal Poverty Level (FPL).**

BEM 137, p. 1 (Emphasis Added).

Petitioner does not assert that she meets any non-financial eligibility criteria to qualify for coverage under HMP. MDHHS determined that Petitioner no longer qualified for

HMP since her countable income exceeds the income limit. MDHHS determined that Petitioner's monthly income amount was \$[REDACTED] for a group size of one. MDHHS testified that this determination was based upon reported income from Petitioner in her redetermination form in which she reported current employment with Employer, earning \$[REDACTED] every two weeks (see Exhibit A, p. 9). MDHHS did not provide a budget showing the calculation of Petitioner's income for MA eligibility but provided a MAGI-Summary showing that her monthly income total is \$[REDACTED]. Petitioner confirmed that this amount is accurate.

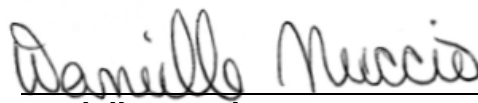
The 2023 FPL (federal poverty level) for a group size of one is \$14,580.00 annually or \$1,215.00 monthly. 133% of the FPL for a household size of one is \$19,391.00 annually or \$1,616.00 monthly.¹ As discussed, Petitioner's monthly income is \$[REDACTED]. Since Petitioner's monthly gross income exceeds 133% of the FPL, Petitioner no longer qualifies to receive MA under the HMP. Therefore, MDHHS acted in accordance with policy in closing Petitioner's MA coverage.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

DN/mp



Danielle Nuccio

Administrative Law Judge

¹ <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>; [Federal Poverty Guidelines / Levels for 2023 & Their Relevance to Medicaid Eligibility \(medicaidplanningassistance.org\)](https://www.medicaidplanningassistance.org/).

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 :

Interested Parties
MDHHS-Oakland-DistrictII-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC4

Via-First Class Mail :

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