



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

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 31, 2024
MOAHR Docket No.: 23-009067
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 25, 2024, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Brad Reno.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of Medical Assistance (MA) when the Department received her Redetermination form on October [REDACTED] 2023. Exhibit A, p 29.
2. Petitioner receives monthly home help provider income for caring for her son in the gross monthly amount of \$[REDACTED] Exhibit A, pp 40-42.
3. Petitioner's child receives child support. Exhibit A, pp 38-39 and 43-45.
4. In 2022, Petitioner reported an adjusted gross income in the annual amount of \$[REDACTED] on her IRS 1040 tax return. Exhibit A, p 12.
5. In 2022, Petitioner reported having two tax dependents on her IRS 1040 tax return. Exhibit A, p 12.

6. On November [REDACTED] 2023, the Department notified Petitioner that one of her children was not eligible for Medical Assistance (MA) as of December 1, 2023. Exhibit A, pp 46-50.
7. On November 27, 2023, the Department received Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) benefits. Exhibit A, pp 5-11.

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 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned income. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (April 1, 2022), pp 1-17.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The

5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.¹

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

Under IRS law, gross income shall not include amounts received by a foster care provider during the taxable year as qualified foster care payments. The term "qualified foster care payment" means any payment pursuant to a foster care program of a state which is paid by a state, and which is a difficulty of care payment. 26 USC § 131.

Self-attestation is acceptable for most eligibility factors. Citizenship, social security numbers and lawful presence require documentation. Department of Health and Human Services Bridges Administrative Manual (BAM) 130 (October 1, 2023), p 4.

In this case, the Department initiated a routine review of Petitioner's eligibility for ongoing MA benefits. Petitioner reported an adjusted gross income of \$[REDACTED] which is 78% of the federal poverty level for a household of three. Petitioner receives monthly gross income of \$[REDACTED] which would ordinarily cause her to be ineligible for HMP benefits, but the hearing record supports a finding that under IRS rules, a significant portion of Petitioner's income is excluded from her adjusted gross income. The excluded income is listed on Petitioner's federal income tax return.

Petitioner's children are also receiving child support, but child support payments are excluded income for the payee in a MAGI Medicaid determination. BEM 503, p 7.

It was not disputed that one of Petitioner's children receives SSI benefits and is eligible for MA benefits. Petitioner is a tax filer claiming two tax dependents and she is potentially eligible for HMP benefits based on her MAGI assuming that all other eligibility factors are met. Petitioner's other child is an individual who is a tax dependent of Petitioner, therefore his household consists of the household of the tax filer, and he is also potentially eligible for HMP benefits assuming all other eligibility factors are met.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for Medical Assistance (MA).

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA).
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/dm



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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
Janice Collins
Genesee County DHHS Union St
District Office
**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

SchaferM

EQADHearings

BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]