



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: October 23, 2023
MOAHR Docket No.: 23-005711
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 October 12, 2023. Petitioner/head of household [REDACTED] appeared and represented herself. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the Department.

Petitioner agreed to the admission of the 41-page hearing packet submitted by MDHHS prior to the hearing. These documents were admitted into evidence as Exhibit A.

ISSUE

Did MDHHS properly close Petitioner's minor daughter's Medicaid (MA) case due to excess income?

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 was an ongoing recipient of MA for a group size of three, including her daughter, [REDACTED]-year-old [REDACTED] (Daughter), and spouse, [REDACTED] (Spouse).
7. On July 3, 2023, MDHHS received Petitioner's timely submitted redetermination of benefits form. Petitioner reported that:
 - a. She is employed at [REDACTED], working 30 hours per week, earning \$ [REDACTED] per hour.
 - b. Spouse is employed at [REDACTED], working 40 hours per week, earning \$ [REDACTED] per week.
 - c. Daughter is employed at [REDACTED], working 16 hours per week, earning \$ [REDACTED] per hour.(Exhibit A, pp. 8-15).
8. On August 29, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that Daughter's MA case would close, effective October 1, 2023, due to her countable income exceeding the income limit for the group size (Exhibit A, pp. 37-41).
9. On September 14, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of Daughter's MA case (Exhibit A, pp. 3-6).

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.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

Ms. Dickson submitted a request for hearing 09/14/2023 regarding the closure of her daughter, ██████'s, MA benefits. Ms. ██████ submitted her July MA redetermination along with income verifications 07/03/2023. Ms. Dickson submitted additional income and asset verifications 07/20/2023. Bridges was updated and ██████'s MA benefits were denied effective 10/01/2023 due to group being over the income limit.

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). Benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. BAM 210 (October 2022), p. 4.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (January 2021), p. 1. Daughter does not qualify under any SSI-related category, so MDHHS properly reviewed her eligibility for a MAGI category.

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. BEM 211 (July 2019), p. 2. Since Daughter is a tax dependent of her two parents, their household size is considered three. The Federal Poverty Level (FPL) for family of 3 is \$24,860.00.¹ Since Daughter is considered a group size of three, the income from Petitioner and Spouse must be considered in determining her MA eligibility. When evaluating eligibility for the Children Under 19 MA category, MDHHS must disregard the earnings of an individual under age 19 who is living with someone who provides care or supervision. BEM 501 (July 2022), p. 3.

¹ Federal Poverty Level (FPL) - Glossary | HealthCare.gov.

The income limit for a child age 1-19 is 160% FPL. BEM 211, p. 1. 160% of the FPL (\$24,860.00 for a family of three) is \$39,776.00 or \$3,314.67 monthly. MDHHS did not present the calculations that they relied upon in Exhibit A, but in the Healthcare Coverage Determination, MDHHS stated that they relied upon their calculation of \$8,988.00 in monthly income for a group size of three (see Exhibit A, p. 38). MDHHS did not present documentation to support the determination of this monthly household income. Upon review of the paystubs for June 2023 provided (see Exhibit A, pp. 16-27), the monthly income received by the household is lower than the amount that MDHHS calculated. Since MDHHS did not appear at the hearing or present documentation as to their determination, MDHHS failed to satisfy its burden that it acted in accordance with policy when closing Daughter's MA case due to excess income.

Petitioner testified that her income has changed significantly since submitting the redetermination forms to MDHHS. Petitioner is encouraged to update MDHHS as to her income and household circumstances so that MDHHS can properly determine her eligibility.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Daughter's MA case.

DECISION AND ORDER

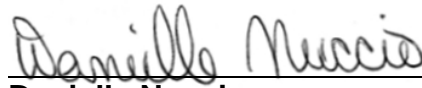
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Daughter's MA case as of October 1, 2023;
2. Begin recalculating the MA budget for October 1, 2023 ongoing, using updated income information and consistent with this Hearing Decision and law and policy;
3. If eligible for MA benefits, provide coverage to Daughter for any MA she was eligible to receive but did not from October 1, 2023 ongoing;

4. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio
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 :

Interested Parties

MDHHS-Macomb-20-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC4

Via-First Class Mail :

Petitioner



MI