



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] MI [REDACTED]

Date Mailed: November 9, 2023  
MOAHR Docket No.: 23-006256  
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 1, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tom Jones, Assistant Payments Supervisor.

### **ISSUE**

Did MDHHS properly update Petitioner's Medical Assistance (MA) coverage?

### **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 MA recipient.
7. On July 6, 2023, MDHHS received Petitioner's timely submitted renewal of MA, reporting that she has earned income from St. Thomas Chaldean (Employer) (Exhibit A, pp. 15-21).
8. On August 8, 2023, MDHHS received a verification of employment from Employer, reporting that Petitioner was temporarily off from employment, effective June 2023, (Exhibit A, pp. 24-26).
9. On August 14, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting she submit verification of income from Employer, including her return-to-work date (Exhibit A, pp. 22-23).
10. On August 24, 2023, MDHHS received from Petitioner a letter stating that she will return to work for Employer on September 5, 2023, and provided her last paystub from June 2023 (Exhibit A, pp. 27-28).
11. On August 28, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that her MA coverage will be closed, effective October 1, 2023, due to excess income (Exhibit A, pp. 30-34).
12. On September 12, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her MA case, stating that her income was calculated inaccurately to determine her eligibility (Exhibit A, p. 3).

### **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 due to excess income. Petitioner disputes the closure of her MA case, stating that MDHHS did not accurately calculate her income amount since she works as a teacher and does not work every month of the year.

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 (65 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 testified that they calculated Petitioner's income amount by averaging the biweekly amount reported in the employment verification form to determine Petitioner's annual income amount. However, Petitioner timely reported to MDHHS that she does not receive income in the summer months since she works as a teacher (see Exhibit A, pp. 27-28). Additionally, Employer reported that Petitioner was temporarily off from work and last worked June 2023 (see Exhibit A, p. 25). MDHHS should have accurately calculated Petitioner's income to exclude months that Petitioner had no income. Since MDHHS did not properly calculate Petitioner's income, they did not properly determine her eligibility for MA. Therefore, MDHHS did not act in accordance with policy in closing Petitioner's MA case due to excess income.

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 did not act in accordance with Department policy when it closed Petitioner's MA case due to excess income.

### **DECISION AND ORDER**

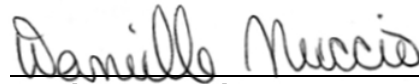
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's MA renewal, taking into account the verification of employment income that Petitioner previously provided;
2. Seek additional verification from Petitioner only if required by policy or previously submitted verification is unclear or incomplete;
3. If Petitioner is eligible for MA benefits, provide coverage to Petitioner 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



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**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-Oakland-6303-Hearings  
EQAD Hearings  
M. Schaefer  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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[REDACTED] MI [REDACTED]