



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 28, 2023  
MOAHR Docket No.: 23-006644  
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 13, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Melissa Stanley, Hearings Facilitator.

### **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. Petitioner's household consists of her husband, [REDACTED] (Husband); her adult son, [REDACTED] (Adult Son); her minor son, [REDACTED] (Minor Son), son, (Son 2); daughter, [REDACTED] (Daughter); and herself.
9. On June 9, 2023, MDHHS received Petitioner's timely submitted redetermination of MA benefits. Petitioner reported that Husband has a bank account, Petitioner and Husband are employed at [REDACTED] (Employer), and Petitioner receives unemployment compensation benefits (Exhibit A, pp. 22-29).
10. On June 29, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit income information for Adult Son and herself, for tax refund information for Husband, bank account information for Husband, and unearned income information. MDHHS requested these verifications be submitted by July 10, 2023 (Exhibit A, pp. 20-21).
11. On July 10, 2023, MDHHS received a letter from [REDACTED] reporting that Petitioner and Adult Son are not employed and have no income (Exhibit A, p. 41).
12. On July 11, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that her household is no longer eligible for MA coverage due to excess income, effective August 1, 2023 (Exhibit A, pp. 8-14).
13. On August 23, 2023, MDHHS received an Employment Verification from Petitioner in which Petitioner reported that she last worked for Employer on February 28, 2020 and has not returned to work (Exhibit A, pp. 30-34).
14. On August 23, 2023, MDHHS received an Employment Verification from Adult Son in which Adult Son reported that he never worked for Employer (Exhibit A, pp. 35-38).
15. A paystub Adult Son received from Employer from May 15, 2023 was submitted to MDHHS (Exhibit A, p. 40).
16. Husband submitted a paystub from Employer to MDHHS from May 15, 2023 (Exhibit A, p. 39).
17. On August 15, 2023, MDHHS issued a VCL to Petitioner, requesting that she submit income information for Adult Son and herself, for tax refund information for Husband, bank account information for Husband and Petitioner, and unearned

income information. MDHHS requested these verifications be submitted by July 10, 2023 (Exhibit A, pp. 42-43).

18. On September 6, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that Adult Son and Petitioner are approved for Plan First MA, effective August 1, 2023, and Husband, Minor Son, and Daughter are no longer eligible for MA due to failure to return verification of income and bank account information (Exhibit A, pp. 15-19).
19. On September 27, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the MA coverage her household was approved to receive (Exhibit A, pp. 3-4).
20. On October 16, 2023, MDHHS issued a Healthcare Coverage Determination Notice to Petitioner, informing her that Husband was approved for Plan First MA, effective August 1, 2023 (Exhibit A, pp. 44-46).

### **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 Adult Son, Husband, and Petitioner are approved for Plan First MA, and Minor Son and Daughter are no longer eligible for MA due to failure to return verification of income and bank account information. Petitioner disputes the changes in the household's MA coverage.

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's household is unable to receive MA under an SSI-related category because no individual is aged (65 or older), blind, disabled, or entitled to Medicare or formerly blind or disabled. Therefore, MDHHS properly reviewed Petitioner's household's eligibility based on Modified Adjusted Gross Income (MAGI) methodology for MA coverage under the MAGI categories: 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. Since these plans require calculation of income, and Petitioner reported household income in the submitted redetermination, in order to determine eligibility MDHHS issued two VCL to Petitioner requesting income information. To request verification of information, MDHHS must inform the client of what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 3. With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by MDHHS. Verifications are considered to be timely if received by the date they are due. MDHHS will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 7-8. MDHHS properly requested verification of income in order to determine Petitioner's eligibility and the most beneficial MA category for Petitioner's household. In response, Petitioner provided to MDHHS Employment Verification for Adult Son and herself. However, these verifications were insufficient because Petitioner and Adult Son completed the form, rather than have Employer complete and submit the requested verification (see Exhibit A, pp. 30-38). Petitioner then submitted a letter from [REDACTED] reporting that Petitioner and Adult Son are not employed and have no income (see Exhibit A, p. 41). This verification was also insufficient because there was no information to support that [REDACTED] was affiliated with Employer. Husband submitted a paystub from Employer to MDHHS from May 15, 2023. This verification was insufficient because it did not include 30 days' worth of income to determine eligibility (see Exhibit A, p. 39). Since Petitioner

did not provide sufficient verification of income, MDHHS was unable to determine eligibility for the minor children in the household. Therefore, MDHHS acted in accordance with policy in closing Petitioner's MA case with respect to Minor Son and Daughter.

Additionally, since no verification of income was submitted to MDHHS, with respect to the adult household members, MDHHS determined that Petitioner, Husband, and Adult Son were eligible for Plan First MA. Plan First Medicaid is a MAGI-related limited coverage Medicaid group available to any United States citizen or individual with an immigration status entitling them to full Medicaid coverage residing in Michigan. The fiscal group's net income cannot exceed 195 percent of the federal poverty level. BEM 124 (July 2023), p. 1. 195% of the FPL is \$38,454.00 or \$3,204.50 monthly. While MDHHS was unable to determine Petitioner's income amount, MDHHS activated Plan First coverage for the adult members of Petitioner's household.

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 with respect to Petitioner's MA case.

Petitioner is encouraged to submit a new application for MA and submit all requested verifications timely to MDHHS.

**DECISION AND ORDER**

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

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-Wayne-17-hearings  
EQAD Hearings  
M. Schaefer  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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