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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

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DIRECTOR

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Date Mailed: August 23, 2024  
MOAHR Docket No.: 24-004943  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 hearing was held on July 24, 2024, via teleconference. Petitioner appeared and represented himself. Avery Smith appeared on behalf of the Michigan Department of Health and Human Services (Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-28.

### **ISSUE**

Did MDHHS properly determine Petitioner's household's Medicaid (MA) eligibility?

### **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's spouse (Spouse) and three children (Minor Children) were ongoing recipient of MA coverage.
2. On ██████████ 2024, Petitioner submitted a Redetermination for MA reporting irregular self-employment income and assets (Exhibit A, pp. 14-15).
3. On March 6, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that Minor Children were ineligible for MA coverage, effective April 1, 2024 ongoing (Exhibit A, pp. 22-28).
4. On May 25, 2024, Petitioner requested a hearing regarding the termination of MA coverage (Exhibit A, p. 4).

## 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).

Medicaid (MA) 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, MDHHS terminated Minor Children's MA coverage. The Health Care Determination Notice did not provide a specific reason for the termination. At the hearing, MDHHS testified that MiChild MA coverage was terminated due to excess income and Group 2 Persons Under 21 (G2U) MA was denied due to excess assets. Based on the record, it is unclear what the status of Spouse's MA coverage was, if any.

Children over age 1 and under age 19 who are not eligible for MA for foster care children are potentially eligible for MA under three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105, p. 1, 3-4; BEM 130 (January 2024), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. The U19 program is a Modified Adjusted Gross Income (MAGI)-related Group 1 MA category, meaning that it provides full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1. Income eligibility for MiChild is also determined according to MAGI rules. BEM 130, p. 1. Children whose household income exceeds the income limit for U19 or MiChild eligibility are potentially eligible for MA under the G2U category, with a deductible equal to the amount the child's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the county in which the child resides and child's fiscal group size. BEM 132, p. 2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1. Under federal law, the child is entitled to the most beneficial category, which is the one that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p. 3.

For MAGI-related MA programs, group composition follows tax filer and tax dependent rules. BEM 211 (October 2023), p. 1. 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, subject to certain exceptions. *Id.*, p. 2. Potentially relevant here, the individual's group must be considered as non-filer/non-dependent if: the individual is under the age of 19 (or under 21 if a full-time student) and expects to be

claimed by one parent as a tax dependent and [is] living with both parents, but the parents do not expect to file a joint tax return. *Id.*

In order to determine income eligibility for MAGI-related U19 and MICHild programs, the household's MAGI income must be considered. In determining income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21.

Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings.

See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For income from self-employment, MAGI-related MA uses adjusted gross income as declared on the federal tax return. BEM 502 (October 2019), p. 3.

Petitioner reported self-employment income and provided a Schedule C Profit and Loss from Business statement, which showed a net profit of \$53,026.00 (Exhibit A, p. 6). On the Redetermination, Petitioner reported receiving \$9,083.00 in monthly self-employment income and that this payment was irregular (Exhibit A, p. 15). Although Petitioner reported that this income was irregular, MDHHS budgeted it as monthly income (Exhibit A, p. 20). Given the discrepancy between Petitioner's report and the tax information, MDHHS should have attempted to verify Petitioner's income information prior to terminating the household MA coverage. See *generally*, BAM 130 (May 2024). MDHHS did not provide sufficient evidence that it properly attempted to verify Petitioner's income information in this case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's household MA coverage.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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. Redetermination Petitioner's household eligibility for MA coverage, effective April 1, 2024; ongoing;
2. Provide each individual with the most beneficial category of MA coverage that the individual is eligible to receive, effective April 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/pt

  
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**Linda Jordan**  
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:**

**DHHS**

Tracey Jones  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033

**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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