



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 14, 2024
MOAHR Docket No.: 24-006135
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via Microsoft Teams (audio only) on July 18, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's and her spouse'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. As of March 2024, Petitioner was an ongoing recipient of unlimited-coverage Medicaid in a household with [REDACTED] [REDACTED] Petitioner's spouse (hereinafter, "Spouse") and their two minor children.
2. On March 4, 2024, Petitioner submitted to MDHHS redetermination documents reporting that she and spouse were 19-65 years of age, married, not pregnant, caretakers to minor children, not a Medicare recipient, and not disabled.
3. As of April 2024, Petitioner reported to MDHHS receiving gross biweekly wages of \$ [REDACTED] and seasonal employment.

4. As of April 2024, Petitioner reported to MDHHS that Spouse received gross weekly income of at least \$ [REDACTED] from self-employment.
5. On April 26, 2024, MDHHS determined that Petitioner, Spouse and their two children were ineligible for Medicaid benefits including Healthy Michigan Plan (HMP).
6. On May 21, 2024, Petitioner requested a hearing to dispute her and Spouse's Medicaid eligibility. Petitioner also disputed Medicaid eligibility for her children.
7. On July 17, 2024, MDHHS sent Petitioner notice that her children were eligible for Medicaid. MDHHS also determined that Petitioner and Spouse were eligible for Medicaid subject to a \$2,845 monthly deductible beginning July 2024.
8. On July 18, 2024, Petitioner withdrew the dispute of MA for her children.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of Medicaid eligibility for her two children. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated April 26, 2024, stated that Petitioner's children were not eligible for various Medicaid programs. Exhibit A, pp. 6-12. However, MDHHS approved Petitioner's children on July 17, 2024 for Medicaid beginning June 2024 and sent corresponding notice. Petitioner acknowledged that the approval of Medicaid resolved her hearing request concerning her children's Medicaid eligibility. Based on Petitioner's partial withdrawal, the hearing request disputing the Medicaid eligibility of Petitioner's children will be dismissed.

Petitioner also disputed a determination of Medicaid for herself and Spouse. Exhibit A, pp. 3-5. A Health Care Coverage Determination notice dated April 26, 2024, stated that Petitioner and Spouse were ineligible for various MA categories.¹ Exhibit A, pp. 6-12. To determine if MDHHS correctly determined Petitioner's and Spouse's MA eligibility, an analysis of MA categories must be considered.

¹ MDHHS testified that Petitioner and Spouse were also determine eligible for Medicaid subject to a monthly deductible of \$3,972 for June 2024 and \$2,845 beginning July 2024.

Medicaid is also known as MA. BEM 105 (October 2023) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.² *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Group 2 categories are considered a limited benefit (not limited coverage) because a deductible is possible. *Id.*

Petitioner submitted redetermination documents to MDHHS on March 4, 2024, which reported that she and Spouse were 19-65 years of age, married, not pregnant, caretakers to minor children, not a Medicare recipient, and not disabled. Exhibit A, pp. 19-25. Under the circumstances, the most typical Group 1 MA category with the highest income limit for which Petitioner and Spouse may be eligible is HMP.³ HMP eligibility factors may be found in BEM 137.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.⁴ 42 CFR 435.603(e). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603(h). MDHHS has chosen to determine HMP eligibility based on current monthly income.⁵

² Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

³ As a caretaker to minor children, Petitioner and Spouse are potentially also eligible for the MA category of Low-Income Family (LIF). However, LIF eligibility is a much lower income limit than HMP and is based on 54% of the federal poverty level. BEM 110 (April 2018) p. 1.

⁴ Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska natives. No known exceptions are applicable to the present case.

⁵ https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf

Modified adjusted gross income can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.⁶ Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.⁷

Group composition for MAGI-related categories follows tax filer and tax dependent rules. BEM 211 (October 2023) p. 1. The household for a tax filer, who is not claimed as a tax dependent, consists of: the tax filer, the tax filer's spouse, and tax dependents. *Id.*, p. 2. Petitioner was a married tax filer with two tax dependents. Under the circumstances, Petitioner's MAGI-related MA group size is 4 persons.

MDHHS's Hearing Summary alleged Petitioner was ineligible for MA based on excess assets. Exhibit A, p. 1. Concerning income, MDHHS's hearing packet provided no evidence of how Petitioner's or Spouse's income was calculated. The little evidence of income presented during the hearing was disputed by Petitioner and uncorroborated.

First, it was not disputed that Spouse received \$[REDACTED] in gross monthly wages. MDHHS alleged the income derived from employment; Petitioner claimed the income derived from self-employment. Petitioner testified that Spouse received income for delivering medical-related items. BEM 503 details the guidelines for determining if income derives from employment or self-employment. The difference matters because MAGI-MA uses adjusted gross income as declared on the federal tax return. BEM 503 (October 2019) p. 3.

Secondly, it was not disputed that Petitioner received at least \$[REDACTED] in gross monthly income. Petitioner additionally stated that her wages were seasonal, and that income decreased during summers and school holidays. As stated above, MDHHS generally considers *current* monthly income and family size (except for individuals who report seasonal work and complete a projected annual income field on the MA application to show work for only a portion of the year with reasonably predictable changes in income within the upcoming 12 months). Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018.⁸ Petitioner's claim of seasonal employment was not corroborated, but it was also not rebutted by any evidence from MDHHS. Furthermore, Petitioner worked for a school district; generally, employment with a school district is consistent with seasonal employment. There was no evidence that MDHHS calculated Respondent's income based on Petitioner's employment being seasonal or having "reasonably predictable changes".

⁶ <https://www.investopedia.com/terms/a/agi.asp>

⁷ *Id.*

⁸ https://www.michigan.gov/mdhhs//media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

Thirdly, MDHHS testimony acknowledged that Petitioner received MA under the MA category of Parent/Caretaker Relative (PCR) from June 2019 through May 2024.⁹ PCR and Low-Income Family (LIF) are interchangeable (see BEM 110). Petitioner's PCR/LIF eligibility suggests possible eligibility for Transitional Medicaid (TMA). Individuals may receive TMA for up to 12 months when ineligibility for LIF relates to income from employment of a caretaker relative. BEM 111 (April 2018) p. 1. MDHHS failed to establish why Petitioner or Spouse were ineligible for TMA following apparent eligibility for LIF.

Given the evidence, MDHHS failed to establish it properly did not factor Spouse's income as self-employment. Also, MDHHS did not establish that it properly calculated Petitioner's wages as non-seasonal. Additionally, MDHHS failed to establish that it properly excluded TMA as a possible MA category for Petitioner and Spouse. As a remedy, Petitioner and Spouse are entitled to a redetermination of MA benefits.¹⁰

⁹ MDHHS's testimony is questionable because PCR eligibility is based on 54% of the FPL (see BEM 110) and the evidence did not suggest that Petitioner's household income was so low as to qualify for PCR or LIF for several years. Nevertheless, the testimony was accepted for purposes of this decision as MDHHS did not waver in its testimony.

¹⁰ Petitioner should be aware that an order to reprocess does not equate to a finding that Petitioner and Spouse were eligible. The order to process may reflect more on MDHHS's failure to prepare for the hearing rather than a miscalculation of MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her hearing request concerning the termination of her children's Medicaid beginning June 2024. Concerning the closure of her children's Medicaid, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly determined Petitioner's and Spouse's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's and Spouse's MA eligibility beginning June 2024 subject to the findings that MDHHS failed to establish the following:
 - a. Spouse's income was not self-employment
 - b. Petitioner's wages were properly calculated due to Petitioner's claim that wages were seasonal; and
 - c. Petitioner and Spouse were ineligible for TMA based on previous LIF/PCR eligibility; and

- (2) Issue benefit supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki

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
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Interested Parties

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Via-First Class Mail :

Petitioner

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