



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

██████████
██████████
██████████ MI ██████████

Date Mailed: August 23, 2024
MOAHR Docket No.: 24-006756
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 herself. Sunshine Simonson, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-39.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (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. Petitioner, her spouse and three adult children were ongoing recipients of MA coverage.
2. On ██████████ 2024, Petitioner submitted a redetermination for MA and reported employment income for herself (Exhibit A, p. 10). Petitioner also reported that her spouse was no longer employed (Exhibit A, p. 11).
3. On April 17, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner, her spouse and her adult children were no longer eligible for MA, effective May 1, 2024 ongoing, because the household income exceeded the income limit for the program (Exhibit A, p. 33-37).
4. On May 29, 2024, Petitioner requested a hearing regarding the termination of the household's 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, MDHHS denied Petitioner, her spouse and three adult children MA coverage because the household was over the income limit for the program.

MA includes several sub-programs or categories. BEM 105 (January 2024), p. 1. 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.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group, Health Michigan Plan (HMP) and Plan First is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

HMP MA provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (June 2020), p. 1. HMP is based on MAGI methodology. *Id.* To be eligible for HMP, an individual's income must be at or below 133% of the Federal Poverty Level (FPL). *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors, and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1. 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.*

MDHHS determined that Petitioner's household was not eligible for an SSI-related MA category because there was no evidence that the individuals were aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Petitioner did not submit any evidence to the contrary. Accordingly, the family was only potentially eligible for HMP or Plan First MA.

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5. MDHHS

determined that Petitioner had a household of five for the purposes of MA. Petitioner did not dispute this determination.

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned 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.¹ Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size, and can take into account any reasonably predictable increase or decrease in income.²

MDHHS requests verification of a client's written or verbal statements when required by policy or when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (May 2024), p. 1. The questionable information might be from a client or third party. *Id.* Verification is usually required at application or redetermination. *Id.* To request verification, MDHHS must send the client a Verification Checklist (VCL), which tells the client what verification is required, how to obtain it and the due date. *Id.*, pp. 3-4. Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. *Id.*, p. 9.

MDHHS testified that the budget was based on Petitioner's income at [REDACTED] (Employer), and introduced Petitioner's paystubs for [REDACTED] 2024 (Exhibit A, pp. 15-18). Based on the paystubs, MDHHS determined that Petitioner's monthly income for MA was \$6,977.69 (Exhibit A, p. 20). However, on the FAP Redetermination, Petitioner reported that she received \$1,650.00 every two weeks from Employer. At the hearing, Petitioner testified that her income varied. Given the discrepancy between Petitioner's statements and information from another source, MDHHS should have attempted to verify Petitioner's income information and given her a reasonable opportunity to resolve the discrepancy, pursuant to BAM 130.

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

¹ See Healthcare.gov, Count Income & Household Size, available at <<https://www.healthcare.gov/income-and-household-information/how-to-report/>> (last accessed August 22, 2024).

² Michigan Medicaid State Plan, December 18, 2017 Submission, available at <https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf> (last accessed August 22, 2024).

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. Redetermine the MA eligibility for all household members, effective May 1, 2024;
2. Provide each household member with the most beneficial category of MA coverage that the individual is eligible to receive, from May 1, 2024 ongoing; and
3. Notify Petitioner of its decision(s) in writing.

LJ/pt



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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

Petitioner

██████████
██████████
██████████ MI ██████████

Authorized Hearing Rep.

██████████
██████████
██████████ MI ██████████