



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

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██████████, MI ██████████

Date Mailed: October 29, 2024  
MOAHR Docket No.: 24-009095  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 telephone conference on October 3, 2024. Petitioner participated and was unrepresented. ██████████ ██████████ Petitioner’s spouse (hereinafter, “Spouse”), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, specialist.

**ISSUE**

The issue is whether MDHHS properly determined Medical Assistance (MA) eligibility for Petitioner and Spouse.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 1, 2023, MDHHS approved Petitioner and Spouse for Medicaid beginning July 2023. Spouse was also determined ineligible for Medicaid beginning September 2023.
2. Beginning March 2024, Spouse turned ██████████ years of age.
3. On June 28 and July 12, 2024, Spouse received respective gross biweekly wages of \$██████████ and \$██████████

4. On July 29, 2024, Petitioner submitted redetermination documents to MDHHS which reported Petitioner being under 65 years, not disabled, not a Medicare recipient, not pregnant, and not a caretaker to a minor child.
5. On July 15, 2024, MDHHS determined Petitioner eligible only for the limited-coverage MA category of Plan First beginning August 2024. MDHHS additionally determined Spouse to be eligible for Medicaid in March and April 2024, Medicaid subject to a \$1,653 monthly deductible in May 2024, and ineligible for Medicaid beginning June 2024.
6. On July 19, 2024, MDHHS again determined Petitioner eligible only for the limited-coverage MA category of Plan First beginning August 2024. MDHHS additionally determined Spouse to be eligible only for the limited-coverage MA category of Plan First from September 2023 through February 2024 and beginning May 2024. Exhibit A, pp. 20-24.
7. On July 31, 2024, Petitioner disputed the determination of MA benefits.

### **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 to dispute MA eligibility for herself and Spouse Exhibit A, pp. 3-6. A Health Care Coverage Determination Notice dated July 19, 2024, stated that Petitioner was eligible only for the limited coverage MA category of Plan First beginning August 2024. Spouse was also ineligible for MA benefits through February 2024. A further analysis of MA eligibility requires a consideration of MA categories.

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.<sup>1</sup> *Id.*

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<sup>1</sup> Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

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.*

Petitioner submitted redetermination documents to MDHHS on July 6, 2024. Exhibit A, pp. 7-9. On the documents, Petitioner reported being not pregnant, not disabled, 19-65 years old, not a Medicare recipient, and not a caretaker to minor children. *Id.* Through February 2024, the evidence suggested the same circumstances for Spouse. Thus, Spouse (through February 2024) and Petitioner's only potential MA category with full MA coverage is the MAGI-related category of HMP. MDHHS testified that Petitioner and Spouse were ineligible for HMP due to excess income.

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

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. The evidence supported that Petitioner and/or Spouse were tax filers with no tax dependents. Under the circumstances, Petitioner's MAGI-related MA group size is two.

The evidence indicated that the only group income was wages for Spouse. MDHHS presented gross biweekly income documents for Spouse dated June 28 and July 12, 2024, listing respective gross biweekly wages of \$████████ and \$████████ Exhibit A, pp. 38-39. Adding the biweekly wages and dividing by two results in an average gross

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<sup>2</sup> 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.

<sup>3</sup> [https://www.michigan.gov/documents/mdhhs/SPA\\_17-0100\\_Approved\\_638230\\_7.pdf](https://www.michigan.gov/documents/mdhhs/SPA_17-0100_Approved_638230_7.pdf)

<sup>4</sup> <https://www.investopedia.com/terms/a/agi.asp>

<sup>5</sup> *Id.*

biweekly wage of \$ [REDACTED] Multiplying the average gross weekly wage by 26 results in an annual income of \$ [REDACTED] (\$ [REDACTED] per month).

HMP income limits are based on 133% of the federal poverty level (FPL). RFT 246 (April 2014) p. 1. Also, MDHHS applies a 5% disregard to the income limit when the disregard is the difference between eligibility and non-eligibility. BEM 500 (July 2017) p. 5. Thus, HMP income limits are functionally 138% of the FPL. The 2024 FPL for a 2-person group residing in Michigan is \$20,440.<sup>6</sup> Multiplying the FPL by 1.38 results in an income limit of \$28,207.20 (\$2,350.60 per month).<sup>7</sup> Petitioner's and Spouse's benefit group's MAGI of exceeds the HMP income limit. Presumably, Petitioner's group's income is within the income guidelines to receive the limited coverage MA category of Plan First.<sup>8</sup> Given the evidence, MDHHS properly determined Spouse ineligible for Medicaid through February 2024 and Petitioner ineligible beginning August 2024.

The above analysis applies only to Spouse through February 2024. Spouse turned 65 in March 2024. Spouse's 65<sup>th</sup> birthday requires a second analysis of potential MA categories. A Health Care coverage determination notice dated July 15, 2024, stated that Spouse was eligible for Medicaid subject to a \$1,653 monthly deductible beginning May 2024.<sup>9</sup> Exhibit A, pp. 12-17.

As of March 2024, Spouse was 65 years old, not pregnant, and not a caretaker to a minor child. Thus, Spouse was ineligible for all MAGI categories. As a 65-year-old, Spouse is potentially eligible to receive MA under the SSI-related Group 1 category of Aged/Disability-Care (AD-Care). AD-Care policies are found in BEM 163.

MDHHS is to determine countable income for AD-Care according to SSI-related MA policies in BEM 500, 501, 502, 503, 504 and 530. BEM 163 (July 2017) p. 2. For SSI-related MA categories, MDHHS calculates gross monthly income by multiplying average biweekly income by two. BEM 530 (April 2020) p. 3. Multiplying Spouse's average biweekly wage of \$ [REDACTED] by two results in monthly employment income of \$ [REDACTED]

For SSI-Related MA categories, MDHHS is to apply the deductions allowed in BEM 541 for adults. BEM 163 (July 2017) p. 2. A \$65 and 50% disregard applied for employment income. Applying the disregard results in countable employment income of \$1,315.

Net income for AD-Care cannot exceed 100% of the federal poverty level. BEM 163 (July 2017) p. 2. In 2024, the annual federal poverty level for a 2-person group residing in Michigan is \$20,440.<sup>10</sup> Dividing the annual amount by 12 results in a monthly income

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<sup>6</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

<sup>7</sup> Petitioner's testimony acknowledged that 2023 MAGI was \$29,854 which is still above the HMP income limit.

<sup>8</sup> The Plan First income limit is 195% of the FPL. BEM 124 (July 2023) p. 2.

<sup>9</sup> MDHHS inexplicably determined that Spouse was ineligible for MA benefits after May 2024.

<sup>10</sup> <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

limit of \$1,703.50 (rounding to nearest half dollar). The same income limit is found in policy.<sup>11</sup> RFT 242 (April 2024) p. 1.

MDHHS presented no evidence of the income calculated for Spouse. In fact, MDHHS acknowledged it improperly doubled Spouse's wages in determining MA eligibility.<sup>12</sup>

The evidence did not establish that Spouse was eligible for MA benefits beginning May 2024. However, MDHHS failed to establish it properly determined Spouse was not eligible for MA benefits. As a remedy, MDHHS will be ordered to reprocess Spouse's MA eligibility

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Spouse to be eligible only for the limited-coverage MA category of Plan First through February 2024 and Petitioner beginning August 2024. Concerning Spouse's MA eligibility through February 2024 and Petitioner's MA eligibility beginning August 2024, the actions of MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly determined Spouse's MA eligibility beginning May 2024. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Spouse's MA eligibility beginning May 2024 subject to the finding that MDHHS failed to establish it properly determined Spouse's income; and
- (2) Issue notice and supplements, if any, in accordance with policy.

Concerning Spouse's MA eligibility beginning May 2024, the actions taken by MDHHS are **REVERSED**.

CG/nr



**Christian Gardocki**  
Administrative Law Judge

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<sup>11</sup> MDHHS policy lists an income limit of \$1,723.50 while noting that the \$20 disregard is already factored.

<sup>12</sup> Spouse's group's countable income of \$1,315 for AD-Care appears to be under the income limit. However, MDHHS, not the undersigned should calculate Spouse's eligibility.

**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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