



GRETCHEN WHITMER
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: December 13, 2024
MOAHR Docket No.: 24-011225
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on November 13, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Marcella Towns, Assistance Payments Worker and Assistant Hearings Coordinator. Translation services were initially provided by ██████████ ██████████ an independent English-Arabic translator engaged by the Department, and then by Petitioner's son, ██████████ ██████████

ISSUE

Did the Department properly deny Petitioner and his wife, ██████████ ██████████ ██████████ (Spouse), 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. On May 23, 2024, the Department received Petitioner's 2023 U.S. Individual Income Tax Return and Schedules that reported Petitioner had \$10,498 in net income for 2023, based on profits from self-employment. The income tax return does not reflect any income from any other source. (Exhibit A, pp. 12 – 23).
2. On ██████████ ██████████ 2024, the Department received an application for MA from Petitioner. (Exhibit A, p. 1).

3. On or after August 8, 2024, the Department received a Self-Employment Income and Expense Statement (SE statement) from Petitioner that reported income for his business, [REDACTED] (CT), for July 2024. (Exhibit A, pp. 6 – 7).
4. CT is a limited liability company (LLC) registered with the State of Michigan and owned by Petitioner. (Exhibit A, p. 44).
5. On October 3, 2024, the Department received a request for hearing from Petitioner that disputed the Department's determination of Petitioner's income and denial of his application for MA. (Exhibit A, pp. 3 – 5).
6. On or after October 8, 2024, the Department received SE statements from Petitioner that reported income for CT for August 2024 and September 2024. (Exhibit A, pp. 8 – 11).
7. On October 10, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that denied Petitioner MA for the period of July 1, 2024 through July 31, 2024 due to excess income. The HCCDN did not approve or deny Petitioner for any other period and did not approve or deny Spouse for any period. The Department determined Petitioner's annual income to be \$[REDACTED] from self-employment based on his 2023 income tax return. (Exhibit A, pp. 1, 45 – 48).

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.

Petitioner requested a hearing to dispute the Department's calculation of his income and denial of his [REDACTED] 2024 application for MA. The Department denied Petitioner and Spouse MA due to excess income. The Department determined Petitioner's income was \$[REDACTED] based on the total proceeds of his 2023 self-employment income as reported on his 2023 Schedule C.

The MA program provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors as required under each MA program. BEM

100 (April 2023), p. 2. Verification of a client's income is required when a client applies for MA and the Department must tell the client what verification is required, how to obtain it, and the due date. BEM 500 (April 2022), p. 1; BAM 130 (May 2024), p. 3. For MA, employment income is verified with check stubs or earnings statements, a Verification of Employment form, or federal income tax returns, among other things; while self-employment income is verified with federal income tax returns and/or a filed or unfiled federal Schedule C. BEM 501 (January 2024), pp. 11 – 12; BEM 502 (June 2024), pp. 7 – 8.

Based on his circumstances, Petitioner and Spouse are potentially eligible for MA under Healthy Michigan Plan (HMP) or Plan First Family Planning (PFFP), both of which are Modified Adjusted Gross Income (MAGI)-related MA policies. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. For MAGI-related MA, the Department uses current monthly federally taxable income, and reasonably predictable changes in income, to calculate a client's MAGI-income. (MAGI-Based Income Methodologies (SPA 17-0100), eff. 11/01/2017, app. 03/13/2018); 42 CFR 435.603(h). See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The evidence established that Petitioner's and Spouse's sole source of income is from Petitioner's work as a taxi driver for Uber and Lyft, and that Petitioner reported that he is currently earning his income under CT, which is an LLC that he owns. (Exhibit A, pp. 6 – 11, 44). Petitioner's current income is different than the 2023 tax year, when Petitioner was self-employed. (Exhibit A, pp. 6 – 23).

While mere ownership of CT does not establish Petitioner's earnings are from employment, Petitioner submitted completed SE statements for CT for July, August, and September 2024, to the Department. (Exhibit A, pp. 6 – 11). Although the SE statements were not acceptable as verification of income, the Department properly accepted Petitioner's representation that his work is performed for CT, and concluded that Petitioner is not self-employed. However, despite its conclusion, the Department testified that it calculated Petitioner's current income based on the total proceeds of self-employment income reported on Petitioner's 2023 Schedule C. (Exhibit A, pp. 19 – 22). The Department's calculation was not proper because:

- a. The Department is aware that Petitioner is not currently self-employed (Exhibit A, pp. 6 – 11), and Petitioner's income from an LLC is the wages he receives, not the total proceeds of the LLC, even when he is the owner of the LLC (BEM 501, p. 5).
- b. If the Department determined that Petitioner is actually self-employed, it must reduce Petitioner's total proceeds by: (i) actual amounts allowed by the IRS on Petitioner's Schedule C, Part II plus documented expenses from Schedule C, Part V (BEM 502, p. 4), or (ii) the standard allowable expense amount of 50% of the total proceeds (BEM 502, p. 3), whichever is higher, and it did not. See also BEM 500, pp. 4 – 6.

- c. The Department's calculation was not based on Petitioner's current monthly federally taxable income, or reasonably predictable changes in income.

Although there was no dispute the Petitioner works for himself, because he reported that his income is earned through his LLC, it is not self-employment, and the Department must verify the amount of income Petitioner's earned from the LLC. BEM 501, pp. 5 – 7, 10; BEM 502, p. 1. There was no evidence that the Department requested verification of Petitioner's current wages earned from the LLC. BEM 501, pp. 10 – 12. Therefore, the Department did not act in accordance with Department policy when failed to verify Petitioner's current earned income before it determined Petitioner and Spouse were not eligible for MA, and when it utilized and calculated Petitioner's 2023 total proceeds from self-employment as his current income to determine Petitioner and Spouse were not eligible for MA.

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 did not act in accordance with Department policy when it determined Petitioner was not eligible for MA due to excess income.

DECISION AND ORDER

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

THE DEPARTMENT 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 Petitioner's and Spouse's MA eligibility for August 2024 ongoing, and request verifications if necessary;
2. If eligible, provide Petitioner and Spouse with the most beneficial MA coverage they are each eligible to receive for August 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
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Interested Parties

BSC4
M. Schaefer
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Via-First Class Mail :

Petitioner
[REDACTED]
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[REDACTED], MI [REDACTED]