



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

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Date Mailed: February 6, 2025
MOAHR Docket No.: 24-013104
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 Microsoft Teams on January 8, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tom Jones, supervisor.

ISSUE

The issue is whether MDHHS properly determined Medical Assistance (MA) eligibility for Petitioner, his spouse, and a minor child.

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 September 2024, Petitioner and ██████████ Petitioner's Spouse (hereinafter, "Spouse") were ██████████ years old, not disabled, not pregnant, not Medicare recipients, and caretakers to a minor child.
2. As of ██████████ 2024, Petitioner's and Spouse's child, ██████████ (hereinafter, "Child"), was under the age of 18 years, not pregnant, not a caretaker to a minor child, not disabled, and not a Medicare recipient.
3. As of September 2024, Petitioner and Spouse had three children: all of which were tax dependents.
4. As of ██████████ 2024, Petitioner received \$██████ in gross weekly income that he claimed was from self-employment.

5. As of [REDACTED] 2024, Spouse received [REDACTED] in gross weekly income.
6. On October 29, 2024, MDHHS determined that beginning November 2024, Petitioner and Spouse were eligible for Medicaid subject to a monthly deductible of \$[REDACTED] and Child was eligible for Medicaid subject to a monthly deductible of \$[REDACTED].
7. As of October 2024, MDHHS did not determine if Petitioner received wages or self-employment income.
8. On November 20, 2024, Petitioner requested a hearing to dispute MA eligibility.

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 determinations of Medicaid eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated October 29, 2024, stated that beginning November 2024, Petitioner and Spouse were each eligible for Medicaid subject to a \$[REDACTED] monthly deductible and Child was eligible for a monthly deductible of \$[REDACTED].¹ Exhibit A, pp. 11-19.

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.*

¹ The determination followed an administrative hearing order that MDHHS reprocess MA eligibility for Petitioner, Spouse, and Child (see MOAHR docket no. 24-004484).

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

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.*

The evidence suggested that Petitioner, Spouse, and Child were each not pregnant, not a Medicare recipient, not over 65 years old, and not disabled. Under the circumstances, none are eligible for SSI-related MA categories. All three are eligible for the MAGI categories of HMP and Low-Income Family (LIF). Child is additionally potentially eligible for the MAGI category of MICHild. MDHHS testified that Petitioner, Spouse, and Child were ineligible for all MAGI categories due to excess income.³

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

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 stated he was a tax filer with three children who were tax dependents. Counting Petitioner and Spouse, the HMP and MICHild group size is five persons.

³ As a caretaker to a minor child, Petitioner is potentially eligible to receive MA under the category of Low-Income Family (LIF). LIF has an income limit lower than HMP (see BEM 110). Thus, LIF eligibility need not be considered if Petitioner is not eligible for HMP due to excess income unless Petitioner received recent Family Independence Program (FIP) benefits. The evidence did not indicate recent issuances of FIP benefits.

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

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

⁷ *Id.*

MDHHS testimony indicated that it determined MA eligibility, in part, based on \$[REDACTED] in gross weekly wages received by Petitioner resulting in \$[REDACTED] in countable income. It also factored that Spouse received gross biweekly income of \$[REDACTED] resulting in monthly countable income of \$[REDACTED]. Adding Petitioner's and Spouse's income results in a total monthly income of \$[REDACTED].

Typically, the analysis would proceed to determine if the group's countable income exceeded the MAGI income limit.⁸ In the present case, the analysis must cease because MDHHS acknowledged it may not have accurately calculated the household income.

For self-employment income for MAGI, MDHHS uses adjusted gross income as declared on the federal tax return. BEM 502 (June 2024) p. 3. MDHHS testified that Petitioner's income possibly derived from self-employment. Consideration was given to deciding whether Petitioner's income was self-employment; such consideration was ultimately rejected because MDHHS had not yet considered the issue.

Given the evidence, MDHHS failed to establish that it properly calculated Petitioner's income. As a remedy, MDHHS will be ordered to reprocess HMP eligibility with an emphasis to consider whether Petitioner's income might be self-employment. It should be noted that MDHHS may reprocess eligibility and come to the same outcome. If it does, Petitioner may again dispute the determination by requesting a hearing.

Concerning determining the accuracy of Child's MICHild eligibility and the deductible amounts, an analysis is unnecessary because of the uncertainty of Petitioner's countable income.⁹

⁸ The HMP income limit for a group of five is \$[REDACTED] (\$[REDACTED]).

⁹ It should also be noted that Petitioner claimed a recent countable expense of 401k contributions by Spouse. This was not considered a MAGI expense because the change began after the effective benefit month.

DECISION AND ORDER

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, Spouse's, and Child'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 MA eligibility beginning November 2024 subject to the finding that MDHHS failed to establish if Petitioner's income derived from self-employment; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/pt



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

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

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]