



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 3, 2025
MOAHR Docket No.: 24-013121
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on January 8, 2025, from Lansing, Michigan. ██████████, the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Megan Sterk, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-15.

ISSUE

Did the Department properly determine Medical Assistance (MA) eligibility for Petitioner and his wife?

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 and his wife were receiving Medicaid under the Low Income Family (MA-LIF) category.
2. On September 21, 2024, an IRS Data Exchange was mailed to Petitioner indicating that the Department was notified of potential unearned income. (Exhibit A, p. 1)
3. On ██████████ 2024, Petitioner called the Department about the IRS Data Exchange. Petitioner explained that he has been unemployed since ██████████ and he

has been living off of withdrawals from his 401k. Petitioner indicated that in the past year he withdrew \$[REDACTED] (Exhibit A, p. 1)

4. On October 4, 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MA for Petitioner and his wife was denied effective November 1, 2024, due to income in excess of program limits. (Exhibit A, pp. 6-10)
5. On November 20, 2024, Petitioner filed a hearing request marking that he was contesting a denial of Medicare Savings Program (MSP) benefits. (Exhibit A, pp. 3-5)
6. During the November 22, 2024, prehearing conference, the Department confirmed that Petitioner was contesting the MA closure not a denial for MSP as they do not have Medicare. (Exhibit A, p. 1)
7. Petitioner submitted documentation showing he withdrew \$[REDACTED] from his 401k between [REDACTED] 2024 and [REDACTED] 2024. (Exhibit A, p. 11)
8. The local Department office obtained a policy clarification confirming that withdrawals from a 401k are counted as unearned income for all MA categories. (Exhibit A, pp. 12-15)

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.

The Medicaid program comprises several sub-programs or categories. BEM 105, January 1, 2024, p. 1.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Healthy

Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Low Income Family (LIF) eligibility under the ACA will be a MAGI-related eligibility subgroup. Eligibility for LIF will be derived after a successful MAGI-related eligibility determination for either Parent/Caretaker Relative or Children Under 19. Adults with a dependent child and income under 54 percent of the Federal Poverty Level will be considered LIF eligible. BEM 110, April 1, 2018.

Income means a benefit or payment received by an individual which is measured in money. BEM 500, April 1, 2022, p. 3.

Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, April 1, 2022, p. 3.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. BEM 500, April 1, 2022, pp. 3-4.

Unearned income is all income that is not earned. BEM 500, April 1, 2022, p.4.

In this case, Petitioner disputes that the Department counted the withdrawals from his 401k as income when determining MA eligibility. Petitioner and his wife were receiving Medicaid under the MA-LIF category. Petitioner noted that he is not working. They have no family in the area. Their family is overseas. There is no one they can call in times of need, such as when Petitioner lost his job. The only option was to use savings, such as the 401k. (Petitioner Testimony).

On September 21, 2024, an IRS Data Exchange was mailed to Petitioner indicating that the Department was notified of potential unearned income. (Exhibit A, p. 1). On October 4, 2024, Petitioner called the Department about the IRS Data Exchange. Petitioner explained that he has been unemployed since [REDACTED] and he has been living off of withdrawals from his 401k. Petitioner indicated that in the past year he withdrew

\$[REDACTED]. (Exhibit A, p. 1). On October 4, 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MA for Petitioner and his wife was denied effective November 1, 2024, due to income in excess of program limits. (Exhibit A, pp. 6-10).

Petitioner submitted documentation showing he withdrew \$[REDACTED] from his 401k between [REDACTED] 2024 and [REDACTED] 2024. This documentation also shows that taxes were withheld for the withdrawals Petitioner took from his 401k. (Exhibit A, p. 11).

The withdrawals are countable as unearned income under the above cited BEM 500 policy and the policy clarification the local Department office obtained. It is understood that Petitioner is not working. However, the Department must consider unearned income when determining eligibility for MA. MAGI MA categories, such as LIF, utilize IRS rules and relies on federal tax information to determine adjusted gross income. As noted above it was an IRS data exchange that notified the Department of the unearned income and the documentation Petitioner submitted showing shows that taxes were withheld for the withdrawals Petitioner took from his 401k.

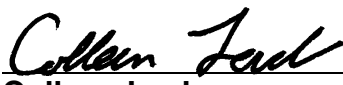
The Department noted that the income limit for MA-LIF for a family of four is \$16,848.00 per year. (Exhibit A, p. 1) Petitioner withdrew \$[REDACTED] from his 401k between [REDACTED] 2024 and [REDACTED] 2024, which greatly exceeds the LIF annual limit. The Health Care Coverage Determination Notice also shows that the Department considered eligibility for Petitioner and his wife under the other MA categories, however they were not eligible.

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 acted in accordance with Department policy when it determined MA eligibility for Petitioner and his wife.

DECISION AND ORDER

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

CL/pt



Colleen Lack
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
Karen Koedam
Barry County DHHS
430 Barfield Drive
Hastings, MI 49058
MDHHS-Allegan-Hearings@michigan.gov

Interested Parties
BSC3
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

Petitioner

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