



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: November 7, 2024  
MOAHR Docket No.: 24-010051  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on November 6, 2024. Petitioner appeared and testified on her own behalf. Rebecca Decess, Social Worker, appeared and testified on behalf of the Respondent Tri County Office on Aging (Department).

**Exhibits:**

Petitioner	None
Department	A – Hearing Summary

**ISSUE**

Did the Department properly terminate Petitioner's MI Choice Waiver services?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Department is a contract agent of the Michigan Department of Health and Human Services (MDHHS) and is responsible for waiver eligibility determinations and the provision of services through the MI Choice Waiver Program in its service area.
2. As of July 30, 2024, Petitioner was approved for and receiving MI Choice Waiver services. (Exhibit A).
3. On July 30, 2024, the Petitioner provided the Department with pension and Social Security benefit verifications indicating income in the amount of [REDACTED]. (Exhibit A; Testimony).

4. As of July 30, 2024, the MI Choice income limit was \$2,829. (Exhibit A; Testimony).
5. On August 5, 2024, the Department notified Petitioner that her MI Choice Waiver services were being terminated effective August 31, 2024, as a result of being over the income limit. (Exhibit A; Testimony).
6. On September 10, 2024, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing.

### **CONCLUSIONS OF LAW**

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Petitioner is seeking services through the Department's Home and Community Based Services for Elderly and Disabled. The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid (formerly HCFA) to the Department. Regional agencies, in this case Respondent, function as the Department's administrative agency.

Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440 and subpart G of part 441 of this chapter.<sup>1</sup>

The Medicaid Provider Manual (MPM) outlines the applicable criteria for the MI Choice Waiver Program and, with respect to eligibility for the program, states in part:

#### **SECTION 2 – ELIGIBILITY**

The MI Choice program is available to persons who are either elderly (age 65 or older) or adults with disabilities aged 18 or older and meet the following eligibility criteria:

---

<sup>1</sup> 42 CFR 430.25(b).

- An applicant must establish their financial eligibility for Medicaid services as described in the Financial Eligibility subsection of this chapter.
- Must be categorically eligible for Medicaid as aged or disabled.
- The applicant must meet functional eligibility requirements through the online version of the Michigan Medicaid Nursing Facility Level of Care Determination (LOCD).
- It must be established that the applicant requires at least two waiver services, one of which must be Supports Coordination, and that the service needs of the applicant cannot be fully met by existing State Plan or other services.

All criteria must be met to establish eligibility for the MI Choice program. MI Choice participants must continue to meet these eligibility requirements on an ongoing basis to remain enrolled in the program.

## **2.1 FINANCIAL ELIGIBILITY**

Medicaid reimbursement for MI Choice services requires a determination of Medicaid financial eligibility for the applicant by MDHHS. As a provision of the waiver, MI Choice applicants benefit from an enhanced financial eligibility standard compared to basic Medicaid eligibility. Specifically, MI Choice is available to participants in the special home and community-based group under 42 CFR §435.217 with a special income level up to 300% of the Supplemental Security Income (SSI) Federal Benefit Rate. Medicaid eligibility rules stipulate that participants are not allowed to spend-down to the income limit to become financially eligible for MI Choice.

To initiate a financial eligibility determination, MI Choice waiver agencies must enter enrollment notifications electronically in the Community Health Automated Medicaid Processing System (CHAMPS). Once the electronic enrollment is completed in CHAMPS, the participant will be assigned an associated MI Choice Program Enrollment Type (PET) code. MI Choice waiver agencies must enter disenrollment notifications electronically in CHAMPS to notify

MDHHS of participants who are no longer enrolled in MI Choice. Once an electronic disenrollment is completed in CHAMPS, the participant's PET code will end to reflect a disenrollment date. Proper recordkeeping requirements must be followed and reflected in the applicant's or participant's case record.<sup>2</sup>

Here, Department's representative testified Petitioner provided financial information that would place her income over the limit for the MI Choice Waiver Program; Department forwarded that information to MDHHS as required; MDHHS subsequently determined that Petitioner was financially ineligible for the waiver program; and Department, therefore, sent Petitioner written notice that her MI Choice Waiver services were being terminated.

In response, Petitioner did not dispute the income limits or the fact she was over the income limits.

Given the above policies and record, the undersigned Administrative Law Judge finds that Department's actions must be affirmed. Per the above policies, beneficiaries are only eligible for the MI Choice Waiver Program if they meet all the applicable eligibility criteria, including financial eligibility requirements as determined by MDHHS; and the evidence in this case clearly demonstrates that Petitioner is financially ineligible for the program.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Department properly terminated Petitioner's MI Choice Waiver services.

**IT IS THEREFORE ORDERED** that

The Department's decision is **AFFIRMED**.

CA/pe

  
\_\_\_\_\_  
**Corey Arendt**  
Administrative Law Judge

<sup>2</sup> Medicaid Provider Manual, MI Choice Waiver, July 1, 2024, p 2.

**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 30763  
Lansing, Michigan 48909-8139

**Via Electronic Mail:**

**Community Health Representative**

Kirsten L Laing, LMSW  
Tri-County Office on Aging  
5303 S. Cedar, Suite 1  
Lansing, MI 48911  
**LaingK@tcoa.org**

**DHHS Department Representative**

Heather Hill  
MDHHS  
400 S. Pine, 5th Floor  
Lansing, MI 48933  
**HillH3@michigan.gov**

**Via Electronic and  
First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]  
[REDACTED]

**Via First Class Mail:**

**DHHS Location Contact**

Marion Owen  
Tri-County Office on Aging  
5303 S. Cedar, Community Room B  
Lansing, MI 48911-3800