



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: January 14, 2019  
MAHS Docket No.: 18-012029  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 9, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Eligibility Specialist, Raquel Welch, and Assistance Payments Manager, Melinda Timmer, appeared on behalf of the Department.

One exhibit was admitted into evidence during the hearing. A 17-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

**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 lives with her spouse, three minor grandchildren, and one minor great grandchild. Petitioner claims all four minor children as tax dependents.
2. Petitioner receives social security in the gross amount of \$ [REDACTED] each month. Petitioner's spouse is employed full-time at the rate of \$ [REDACTED] per hour.
3. Petitioner pays her own Medicare Part B premium in the amount of \$125.00 per month.

4. On [REDACTED], 2018, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that she and her spouse were eligible for MA with a monthly spenddown of \$1,737.00 effective [REDACTED], 2018. Petitioner had previously been eligible for MA with a monthly spenddown of only \$1,698.00.
5. On [REDACTED], 2018, Petitioner requested a hearing to dispute the Department's decision.

### **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 Department initially considered Petitioner's eligibility for full-coverage MA as an aged or disabled individual. In order for an aged or disabled individual to be eligible for full-coverage MA, the individual's group's income must be less than or equal to 100% of the federal poverty limit (\$1,371.67 per month). BEM 163 (July 1, 201) and RFT 242 (April 1, 2018). The Department properly determined that Petitioner's group's income exceeded the program limit because her spouse's income alone exceeded 100% of the federal poverty limit. Since Petitioner's group's income exceeded the program limit, the Department properly found Petitioner ineligible for full-coverage MA as an aged or disabled individual, and the Department properly considered Petitioner's eligibility for MA with a spenddown.

The Department did not properly determine Petitioner's MA eligibility for MA with a spenddown because it did not properly consider Petitioner's group size since it omitted the four minor children that Petitioner claims as dependents. When the Department considers a client's eligibility for MA with a spenddown, the Department must first determine the client's protected income level. BEM 544 (July 1, 2016). A client's protected income level is determined based on a client's group size and the geographical location of the client's home. BEM 544. A client's group size includes the client, her spouse, and all dependents. BEM 211 (January 1, 2016). Here, the Department used a group size of only two when it should have used a group size of six. This caused the Department to use a protected income limit less than what Petitioner

was entitled to, and it caused Petitioner's spenddown to be more than it should have been.

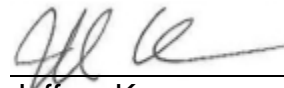
**DECISION AND ORDER**

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 its policies and the applicable law when it determined Petitioner was eligible for MA with a spenddown of \$1,737.00 per month effective [REDACTED], 2018.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's eligibility for MA based on Petitioner's correct group size.

JK/nr



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Jeffrey Kemm  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI  
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

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