



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: April 16, 2019
MAHS Docket No.: 19-000666
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 March 20, 2019, from Lansing, Michigan. The Petitioner was represented by her husband [REDACTED] [REDACTED]. Petitioner also appeared and testified. The Department of Health and Human Services (Department) was represented by Jennifer Sabo AP Supervisor. Department Exhibit 1, pp. 1-15 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case due to excess income?

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 was a recipient of Healthy Michigan Plan Medicaid.
2. Petitioner provided updated income information pursuant to redetermination.
3. On January 18, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing her that her MA-HMP benefit would close due to excess income effective February 1, 2019.
4. On January 25, 2019, Petitioner requested hearing disputing the closure of MA-HMP.

5. Petitioner receives \$ [REDACTED] per month pension income.
6. Petitioner receives \$ [REDACTED] per month Social Security RSDI income.
7. Petitioner had employment income from Howard Johnson in December 2018 of \$ [REDACTED]
8. At the time of hearing the Department was reviewing [REDACTED] [REDACTED] eligibility for disability related MA.

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.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers.

Bridges counts the gross benefit amount as unearned income.

Exceptions:

- Special rules apply when determining MA eligibility for certain former SSI recipients; see BEM 155, 503 Individuals, 157, Early Widow(er)s, and 158, Disabled Adult Children. These special rules do **not** apply to post-eligibility patient-pay amount calculations in BEM 546.
- Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and an individual's benefit check changes; see Bridges Administrative Manual (BAM) 810.
- The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.
- See BEM 500, Returned Benefits.
- See BEM 400, Retroactive RSDI and SSI Exclusion.

Medicaid Only

Note: Countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. For all other months countable RSDI is the gross amount for the month being tested.

Special budgeting rules apply when determining eligibility for MAGI Medicaid.

- All RSDI income is countable to tax-filers and adults not claimed as dependents.
- A child/tax-dependent's RSDI is countable only if that child or tax-dependent is required to file taxes.
- If a child or tax-dependent meets an exception outlined in BEM 211 then all their RSDI income is countable to them even if they are not required to file taxes.

Example: A child is claimed by their grandparent. Because they are claimed by someone other than a parent or spouse use not tax-filer rules to determine their household. Any RSDI income they receive is countable.

- **Note:** The RSDI budgetable income worksheet is no longer valid in determining how much RSDI income may be countable to an applicant. BEM 503 (October 2018)

Income

Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). BEM 137

In this case, Petitioner was a recipient of MA-HMP. Petitioner's income was reviewed pursuant to a redetermination in January 2019. Petitioner has \$[REDACTED] monthly RSDI income. Petitioner has \$[REDACTED] pension income. Petitioner credibly testified that she was working 20 hours per week in December 2018, the month prior to the redetermination. Petitioner was earning \$[REDACTED] per hour. Pursuant to Department budgeting rules, Petitioner was earning \$[REDACTED] per month in employment income. Petitioner had total monthly income of \$[REDACTED]. The income limit for the Healthy Michigan Program for a group of 2 is \$1824.32. BEM 137 Therefore, Petitioner was over the income limit and the closure due to excess income was proper and correct.

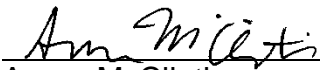
The undersigned Administrative Law Judge requested at hearing that Petitioner's HMP coverage be reinstated pending the hearing pursuant to Department policy because the hearing was requested within 10 days. The Department representative agreed at hearing that this should have happened when the hearing request was filed. The Department representative attempted to reinstate the case but was unable to do so because the case closed at redetermination. Department policy does not dictate that benefits are not to be reinstated if they close at redetermination. However, the Department's failure to reinstate Petitioner's MA coverage pending hearing was harmless error since Petitioner is found to not be eligible during the time period due to excess income.

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 closed Petitioner's MA-HMP case due to excess income.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
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

Eileen Asam
701 S. Elmwood Suite 19
Traverse City, MI
49684

Grand Traverse County DHHS- via
electronic mail

BSC1- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Authorized Hearing Rep.

[REDACTED]
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Petitioner

[REDACTED]
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