



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 1, 2019
MAHS Docket No.: 19-001126
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 21, 2019, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner eligibility for Medical Assistance (MA) Healthy Michigan Plan (HMP) health care benefits?

FINDINGS OF FACT

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

1. The Department mailed a Wage Match Client Notice to Petitioner on November 11, 2018, with a due date of December 14, 2018. The quarterly income reported for Petitioner was \$[REDACTED] (Exhibit A).
2. Petitioner timely responded to the Wage Match Notice and provided three paystubs to the Department dated November 14, 2018; November 28, 2018; and December 12, 2018. The biweekly gross pays were reported as \$[REDACTED] (November 14, 2018); \$[REDACTED] (November 28, 2018) and \$[REDACTED] (December 12, 2018) (Exhibit B).
3. The Department ran a budget and determined that the HMP should close due to Projected Annual Income exceeded the HMP income limit of \$16,200 for a group size of one.

4. The Department sent a Health Care Coverage Determination Notice (Notice) on January 25, 2019, and found that Petitioner's income of \$[REDACTED] was over the HMP limit of \$16,146.20.
5. Petitioner provided his annual IRA contribution (Fidelity) to the Department on December 14, 2018. The IRA contributions totaled \$[REDACTED] as of December 12, 2018. Petitioner also provided the Department with Center for Medicare and Medicaid services State Resource Center showing that the IRA expense from income and is an allowable deduction when determining MAGI based income (Exhibit E and Exhibit F).
6. The Petitioner requested a timely hearing on February 4, 2019, protesting the closure of his HMP medical benefits.

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.

In this case, the Department closed the Petitioner's HMP medical benefits alleging that the Petitioner's income for a group size of one person exceeded the annual income limit for HMP. The Petitioner verified that he contributed to his IRA account with Fidelity \$[REDACTED] in 2018 and asserted that the IRA contribution was an allowable deduction from his income and that when the IRA contribution was deducted, the Petitioner's countable income was below the annual limit for HMP of \$16,146.20. The Department apparently did not consider the Petitioner's position at the prehearing conference and continued to deny the Petitioner's HMP. The Petitioner also provided the Department materials indicating that IRA and other deductions must be incorporated as allowable deductions from income when calculating MAGI based Income (Exhibit E.)

The paystubs provided by the Petitioner in response to the wage match indicated that as of December 12, 2018, the annual year-to-date earnings were \$[REDACTED] (Exhibit C, p. 3).

The Department concluded that Petitioner was not eligible for HMP because his household income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An

individual is eligible for HMP if household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner single. The household for a tax filer, who is not claimed as at tax dependent consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of one.

133% of the annual FPL in 2018 for a household with one member is \$16,146.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.20 (\$1,345.51 per month). To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes **reduced by any money the employer takes out for health coverage, child care, or retirement savings**. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. A review of the website indicates that IRA contributions are deductible expenses from income when calculating adjusted gross income. See <https://www.healthcare.gov/reporting-deductions/>.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

Thus, based upon the allowable expenses that must be considered and deducted from gross income to determine the adjusted gross income to be used when calculating HMP eligibility and the Department's failure to deduct Petitioner's IRA contributions from his income when determining eligibility for HMP and MAGI income, the Department did not properly close the Petitioner's HMP due to having income in excess of the annual limit. Therefore, the Department must credit the IRA contribution verified by Petitioner in the amount of \$[REDACTED] and redetermine his eligibility for HMP.

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 Department policy when it did not deduct the IRA contributions for 2018 when determining Petitioner's annual income for HMP eligibility.

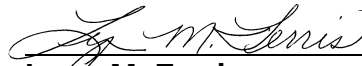
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Petitioner's HMP benefits retroactive to March 1, 2019, the date of HMP closure, and redetermine Petitioner's income eligibility for HMP in accordance with this Hearing Decision.
2. The Department shall provide Petitioner a written notice of its determination.

LMF/jaf



Lynn M. Ferris

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

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

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