



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

[Redacted]
[Redacted]
[Redacted] MI [Redacted]

Date Mailed: May 3, 2019
MOAHR Docket No.: 19-002729
Agency No.: [Redacted]
Petitioner: [Redacted] [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 May 2, 2019, from Lansing, Michigan. Petitioner, [Redacted] [Redacted] appeared and represented herself. Hearing Facilitator, Richkelle Curney, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses. [Redacted] [Redacted] interpreter, provided Arabic/English interpretation for the parties.

One exhibit was admitted into evidence during the hearing. An 11-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 and her three-year-old son live together.
2. Petitioner is employed by [Redacted].
3. Petitioner requested MA for her three-year-old son.
4. Petitioner provided her most recent paystubs to the Department. Petitioner was paid bimonthly. Petitioner's paystubs showed that Petitioner received gross pay

of (a) \$ [REDACTED] on December 31, 2018; (b) \$ [REDACTED] on January 15, 2019; (c) \$ [REDACTED] on January 31, 2019; and (d) \$ [REDACTED] on February 15, 2019.

5. The Department processed Petitioner's request for MA for her three-year-old son. The Department determined that Petitioner's monthly household income was \$ [REDACTED]. The Department determined that Petitioner's three-year-old son was ineligible for full-coverage MA due to excessive income, and the Department determined that he was eligible for MA with a monthly deductible of \$2,503.00.
6. On February 25, 2019, the Department issued a health care coverage determination notice to Petitioner to notify her that her three-year-old son was eligible for MA with a monthly deductible of \$2,503.00 effective April 1, 2019.
7. On March 12, 2019, Petitioner filed a hearing request 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 did not present sufficient evidence to establish that it properly budgeted Petitioner's household income. The Department testified that it budgeted \$ [REDACTED] as Petitioner's monthly household income, but the Department also testified that it believed the amount to be erroneous. The Department did not provide any evidence to establish that it properly applied its policies (including BEM 530) to budget Petitioner's household income. Therefore, the Department's decision must be reversed.

Although the Department's decision is reversed, that does not mean that Petitioner's three-year-old son is eligible for full-coverage MA; it simply means that (a) the Department did not establish that it acted in accordance with its policies and (b) the Department must redo its budget in accordance with its policies and make a new eligibility determination based on its new budget. The Department must apply BEM 530 when it redoes its budget, and the Department must consider prospecting Petitioner's income since her paystubs show her income is variable. Once the Department's new budget is complete, the Department must consider whether Petitioner's three-year-old

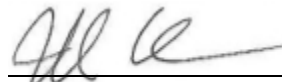
son is eligible for any full-coverage MA programs such as Healthy Kids (BEM 131) or MICHild (BEM 130). Once the Department determines the best MA that Petitioner's three-year-old son is eligible for based on its new budget, the Department must issue a new notice to Petitioner with its new eligibility determination.

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's eligibility for MA.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.

JK/nr



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 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

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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