



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 14, 2019
MOAHR Docket No.: 19-003294
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 May 13, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Lashana Threlkeld, Assistance Payments Supervisor, and Orlando Curry, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) Program 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. On November 5, 2018, the Department received a Federally Facilitated Marketplace Application Transfer, or an MA application for Petitioner which listed herself and her son as a tax dependent, but that her son was not in the household, and that Petitioner had income from employment.
2. On November 21, 2018, the Department received Petitioner's completed Healthcare Coverage Supplemental Questionnaire (HCCSQ) indicating that Petitioner had gross income from one job of \$[REDACTED] for 40 hours worked and was paid bi-weekly, and then \$[REDACTED] for a second job for 28 hours worked and was paid bi-weekly.

3. On the same day, the Department reviewed a Consolidated Income Inquiry showing that she had income from employment in the third quarter of 2018 in the amount of \$ [REDACTED] for one employer, \$ [REDACTED] for a second employer, and \$ [REDACTED] for a third employer.
4. On March 13, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was not eligible for MA benefits because she was not under age 21, not pregnant, not a parent or caretaker of a dependent child, not disabled, not blind, not aged, and had income greater than the income limit for the Healthy Michigan Plan (HMP).
5. On March 25, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of her MA application.

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, Petitioner's MA application was denied due to excess income for a group size of one. MA is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Since Petitioner is not under 21 or over 64, nor is she pregnant, blind, or disabled, Petitioner does not qualify for any of programs listed above involving these eligibility

factors. If Petitioner is eligible for benefits, she may qualify for MA under the HMP program as she meets all non-financial eligibility factors.

HMP requires a determination of group size under the MAGI methodology with consideration of the client's tax status and dependents. BEM 211 (January 2016), p. 1. Notably, this policy does not evaluate who lives together, but instead who is claimed as a dependent and their tax filing status. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211, pp. 1-2. On Petitioner's application, she listed herself and included her son as a tax dependent. Given that her son is under age 26 and a college student, Petitioner's statement that her son is a dependent for tax purposes is credible. Therefore, Petitioner's MA group size is two. 133% of the FPL for a group size of one is \$21,891.80 until January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>; see also <https://aspe.hhs.gov/2018-poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$21,891.80 for a group size of two or \$1,824.31 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt 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. *Id.* 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, childcare, or retirement savings. *Id.* See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

According to Petitioner's HCCSQ, she had income of \$[REDACTED] and \$[REDACTED] bi-weekly for her two jobs. The Department relied on this information rather than the consolidated income inquiry or any other verification. This was an error on the part of the Department as the Department is required to verify all forms of income and use the information presented by a consolidated income inquiry if no other verified source is available. BEM 500 (July 2017), pp. 13-14. The Department apparently utilized the HCCSQ listed income instead of the Consolidated Income Inquiry because the income from her HCCSQ was less, potentially making her eligible for HMP benefits.

HMP eligibility is determined based upon a current month's income. Since Petitioner listed both sources of income as being bi-weekly, each income is multiplied by 26 paychecks to achieve her annual income. Therefore, she has income from one employer of \$[REDACTED] and \$[REDACTED] for the other and her combined income is

\$ [REDACTED] annually or \$ [REDACTED] slightly more than the income calculated by the Department. The Department's calculation of Petitioner's income is incorrect because the Department standardized Petitioner's income using prospective budgeting policies found in BEM 505. BEM 505 applies to Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), and Food Assistance Program (FAP) cases. BEM 505 (October 2017), p. 1. BEM 505 does not apply in any MA case. Although the Department's calculation is less than the calculation here, it is not of consequence because Petitioner's group income is less than 133% of the FPL for a group size of two even when properly calculated based upon the HCCSQ reported earnings. Petitioner is eligible for HMP benefits based upon the income reported in the HCCSQ.

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 denied Petitioner's MA application.

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. Reinstate Petitioner's November 5, 2018 Application;
2. Redetermine Petitioner's eligibility for MA benefits;
3. Issue supplements to Petitioner or on her behalf in accordance with Department policy; and,
4. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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

Renee Swiercz
MDHHS-Oakland-4-Hearings

Petitioner

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