



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 31, 2019
MOAHR Docket No.: 19-003960
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 30, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Ivan Diaz-Castillo, Assistance Payments Worker.

ISSUE

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

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 an ongoing recipient under the MA Freedom to Work (FTW) category.
2. On January 24, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that she was eligible for MA benefits under the FTW category (Exhibit A, pp. 8-10). Petitioner was also advised she had a monthly premium of \$60.25 effective March 1, 2019, ongoing.
3. On April 11, 2019, the Department sent Petitioner a HCCDN informing her that her MA benefit case was closing for her failure to pay her monthly premium (Exhibit A, pp. 20-23).

4. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing MA recipient under the FTW category. Previous to March 1, 2019, Petitioner was not subject to a monthly premium. On January 25, 2019, the Department sent Petitioner a HCCDN informing her that she was eligible for MA benefits under the FTW category. Petitioner was also advised she was subject to a monthly premium of \$60.25. On April 11, 2019, the Department sent Petitioner a HCCDN informing her that her MA benefit case was closing for her failure to pay her monthly premium.

In her hearing request, Petitioner alleged that she could not afford her monthly premium. Petitioner's Request for Hearing was submitted within the 90-day time limit related to the January 25, 2019 HCCDN. Therefore, the issue of whether the Department properly determined Petitioner's premium amount under the FTW MA category will be addressed.

FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. FTW is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 174, p. 3. Individuals with MAGI income less than 138 percent of the Federal Poverty Level (FPL) will not have a premium. BEM 174, p. 3. A premium of 2.5 percent will be charged for an individual with MAGI income between 138 percent of the FPL and \$75,000 annually. BEM 174, p. 3. A premium of 100 percent of the average FTW participant cost will be assessed for an individual with MAGI income over \$75,000 annually. BEM 174, p. 3. Nonpayment of premium will result in closure of the FTW MA category. BEM 174, p. 3.

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. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner has a household size of one. BEM 211 (January 2016), pp. 1-2. 138% of the annual FPL in 2019 for a household with one member is 17,236.20 annually or 1,436.35 per month. See <https://www.federalregister.gov/documents/2019/02/01/2019-00621/annual-update-of-the-hhs-poverty-guidelines>. Therefore, if Petitioner's income exceeds \$1,436.35 per month, she will be subject to a monthly premium of 2.5 percent of her income.

According to the documents provided, the Department included \$1,125 per month in unearned income from Petitioner's Retirement, Survivors and Disability Insurance (RSDI) benefits (Exhibit A, p. 30). Petitioner confirmed that figure was correct. The Department also included self-employment income from Petitioner's income as a Child Development and Care (CDC) provider. According to the documents provided, it was determined Petitioner had \$[REDACTED] in budgetable self-employment income (Exhibit A, p. 28). Petitioner confirmed that figure was correct.

When reviewing the documents submitted by the Department, \$1,125 in unearned income was included to calculate Petitioner's premium. However, \$[REDACTED] in self-employment income was also included (Exhibit A, p. 25). The total income amount was \$[REDACTED]. 2.5 percent of \$[REDACTED] is \$[REDACTED], which is how the Department obtained the premium figure. It is unclear why the Department used the figure of \$[REDACTED] for Petitioner's self-employment income. A handwritten notation is included on Petitioner's MAGI Eligibility Determination, which was submitted by the Department, and states, "MAGI result for Self-Employment per month incorrect" with an arrow drawn to Petitioner's self-employment income (Exhibit A, p. 25). Therefore, the Department failed to establish it properly calculated Petitioner's income. As it follows, the Department failed to establish it properly calculated Petitioner's premium amount.

DECISION AND ORDER

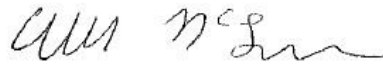
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

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. Redetermine Petitioner's MA eligibility as of March 1, 2019, ongoing.
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive as of March 1, 2019, ongoing, with appropriate premium, if any; and
3. Notify Petitioner of its MA decision in writing.

EM/cg



Ellen McLemore

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

Via Email:

MDHHS- Saginaw- Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]