



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] MI [REDACTED]

Date Mailed: June 7, 2019
MOAHR Docket No.: 19-004452
Agency No.: [REDACTED]
Petitioner: [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 June 5, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared with his authorized representative, [REDACTED] [REDACTED] Eligibility Specialist, Darlean Shaw, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 22-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 is a disabled individual who was born in [REDACTED]
2. Petitioner received MA from the Department through the Aged or Disabled (AD care) program and the Medicare Savings Program. (MSP)
3. Petitioner was employed part-time at [REDACTED] [REDACTED] Petitioner worked varying hours. Angel's Place paid Petitioner \$ [REDACTED] per hour.

4. On March 4, 2019, the Department issued a redetermination to Petitioner to obtain information to review his eligibility for MA.
5. On [REDACTED] [REDACTED] 2019, Petitioner returned the redetermination to the Department with the requested information. In the redetermination, Petitioner asserted that he had earned income of \$ [REDACTED] biweekly from employment and unearned income of \$ [REDACTED] monthly from social security. Petitioner reported that his employment was project-based and irregular.
6. The Department reviewed Petitioner's case and determined that Petitioner had earned income of \$ [REDACTED] per month from employment at Angel's Place and unearned income of \$ [REDACTED] per month from social security.
7. The Department determined that Petitioner was ineligible for MA through the AD care program because his income exceeded the program limit. However, the Department determined that Petitioner was eligible for MA through the Freedom to Work (FTW) program with a monthly premium. The Department also determined that Petitioner was ineligible for MSP coverage.
8. On April 3, 2019, the Department issued a health care coverage determination notice which notified Petitioner that he was eligible for MA effective May 1, 2019, with an estimated premium of \$39.28. The notice also notified Petitioner that he was not eligible for MSP.
9. On April 24, 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.

Full-coverage MA is available through various programs, including AD care. AD care is available to individuals who are aged or disabled and who have income no greater than 100% of the Federal Poverty Level (FPL). BEM 163 (July 1, 2017), p. 1. For a group size of one in 2019, the income limit is \$1,061.00 per month. RFT 242 (April 1, 2019).

Petitioner's income exceeded the income limit for coverage through AD care because his monthly income exceeded \$1,061.00. Without even considering Petitioner's income from employment, Petitioner's monthly income was \$ [REDACTED]. Thus, the Department properly determined that Petitioner's income exceeded the limit for coverage through AD care.

Full-coverage MA is also available through the Freedom to Work (FTW) program. It is available to disabled individuals aged 16 through 64 who have earned income. BEM 174 (January 1, 2017), p. 1. The income limit for coverage through FTW is 250% of the FPL. *Id.* There is no premium payment for individuals with income less than 138% of the FPL. *Id.* at 3. There is a premium of 2.5% of income for individuals with income between 138% of FPL and \$75,000. *Id.* The FPL for a group size of one in 2019 was \$12,490.00 per year. 84 FR 1167 (February 1, 2019), p. 1167-1168. Thus, the income limit for coverage through FTW was \$ [REDACTED] per year. The Department properly determined that Petitioner was eligible for MA through FTW because Petitioner was disabled, he had earned income, and his income did not exceed the limit. However, the Department did not properly determine Petitioner's estimated premium.

An individual with income less than 138% of the FPL does not have to pay a premium. The Department determined that Petitioner had an income of \$ [REDACTED] per year, which exceeds 138% of the FPL. However, the Department did not present sufficient evidence to support its budgeted income. Petitioner asserted that his earned income is only \$ [REDACTED] biweekly, and Petitioner provided check stubs which support his assertion (Petitioner provided check stubs showing he worked February and March 2019 and that his total earnings were \$ [REDACTED]). Further, Petitioner asserted that his employment is project-based and irregular. The Department should have considered these circumstances pursuant to BEM 530 when it budgeted Petitioner's earned income. Since the Department did not, I must reverse the Department's decision and order the Department to recalculate Petitioner's income to more accurately determine his premium for coverage through FTW.

No evidence was presented to establish that Petitioner could have been eligible for MA through a more beneficial program than FTW, so I must find that the Department properly determined that Petitioner was eligible for MA through FTW. However, as previously stated, the premium amount must be re-budgeted.

The Department properly determined that Petitioner was not eligible for MSP. Medicare Savings Program (MSP) is MA coverage that pays Medicare premiums. MSP is available to Medicare recipients who are income eligible. BEM 165 (January 1, 2018) and RFT 242 (April 1, 2019). There are three different programs through MSP: QMB, SLMB, and ALMB. Each program has different benefits, with QMB being the greatest and ALMB being the least. The income limit for QMB is the same as AD care; Petitioner is not eligible for AD care, so he is not eligible for QMB. The income limit for SLMB is \$1,269.00; Petitioner's income exceeded the limit because he had unearned income from social security of \$ [REDACTED] plus more than \$10.00 per month from employment. The income limit for ALMB is \$1,426.00; although Petitioner's income may have been

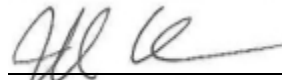
within the limit, Petitioner was not eligible for ALMB because it excludes coverage for individuals who have MA through any other program and Petitioner was found to be eligible for full-coverage MA through FTW. For these reasons, the Department properly determined that Petitioner was not eligible for MSP.

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 issued its April 25, 2019, Health Care Coverage Determination Notice because the Department did not budget Petitioner's income in accordance with the Department's policies.

IT IS ORDERED the Department's decision is REVERSED. The Department shall re-budget Petitioner's income to determine his premium amount for Medical Assistance coverage through the Freedom to Work program. 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

Lori Duda
30755 Montpelier Drive
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Authorized Hearing Rep.

[REDACTED]
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Petitioner

[REDACTED]
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