



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 21, 2019
MOAHR Docket No.: 19-005077
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 20, 2019, from Lansing, Michigan. Petitioner, ██████████ ██████████ appeared and represented herself. Hearing Facilitator, Candice Benns, 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. An 8-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 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. On ██████████, 2019, Petitioner applied for MA from the Department.
2. Petitioner is a single disabled individual who has a monthly income of \$ ██████████ from social security.
3. Petitioner does not have Medicare.
4. Petitioner does not have any tax dependents.

5. On May 8, 2019, Petitioner filed a hearing request because she had not received a determination of her eligibility yet.
6. The Department reviewed Petitioner's eligibility, determined that Petitioner was ineligible for full-coverage MA, and determined that the best available coverage for Petitioner was MA with a monthly deductible.
7. On May 17, 2019, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that she was eligible for MA with a monthly deductible of \$955.00 effective March 1, 2019.

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.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (January 1, 2019), p. 1. However, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (July 1, 2017), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5.

The household size is determined based on tax filer and tax dependent rules. BEM 211 (February 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. BEM 211, p. 1-2. Here, Petitioner has a household size of one because she is single and does not have any tax dependents.

The FPL for a household size of one in 2019 is \$12,490.00, so 133% of the FPL is \$16,611.70 and 133% with a 5% disregard is \$17,236.20. Thus, the income limit for Petitioner to be eligible for health care coverage under the Healthy Michigan Plan is \$17,236.20. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137 (January 1, 2019), p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax

exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. MAGI include(s) the gross amount of social security benefits received by a tax filer. BEM 503 (April 1, 2019), p. 28-29. Here, Petitioner's household income was composed of her monthly income of \$ [REDACTED] from social security, which equals an annualized income of \$ [REDACTED]

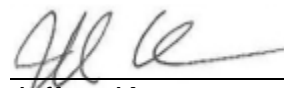
Since Petitioner's income is less than 133% of the FPL with a 5% disregard, Petitioner is eligible for health care coverage under the Healthy Michigan Plan. The Department found Petitioner eligible for health care coverage with a deductible rather than full coverage through the Healthy Michigan Plan. Petitioner had a right to receive health care coverage under the most beneficial program. BEM 105 (April 1, 2017), p. 2. Coverage through the Healthy Michigan Plan is more beneficial than coverage with a monthly deductible. Thus, the Department did not act in accordance with its policies and the applicable law because it did not find Petitioner eligible for the most beneficial program.

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 found Petitioner eligible for MA with a monthly deductible because Petitioner was eligible for better coverage through the Healthy Michigan Plan.

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

Deborah Little
5131 Grand River Ave.
Detroit, MI
48208

Wayne 49 County DHHS- via electronic mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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