



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: September 18, 2019
MOAHR Docket No.: 19-008382
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 September 5, 2019, from ██████████ Michigan. Petitioner represented herself at the hearing. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) program benefits effective August 1, 2019 due to excess income?

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 of MA benefits until her benefits closed effective August 1, 2019.
2. Petitioner's employer reported that she earned \$██████████ during the first quarter of 2019.
3. On June 17, 2019, the Department sent Petitioner a Wage Match Client Notice which was to be completed by her employer and returned to the Department.
4. On July 16, 2019, the Department received the completed Wage Match Client Notice with two paystubs attached showing that Petitioner earns \$██████████ bi-weekly.

5. On July 18, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that her MA benefits would close effective August 1, 2019.
6. On July 29, 2019, Petitioner filed 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).

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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 requested a hearing disputing the Department's decision to close her MA benefit case. Petitioner was an ongoing MA recipient under the HMP program. Employers are required to report the quarterly earnings of their employees. Petitioner's employer reported that she earned \$[REDACTED] during the first quarter of 2019. The Department subsequently sent Petitioner a Wage Match Client Notice which was to be completed by her employer. Petitioner's employer completed the Wage Match Client Notice and attached two paystubs.

The Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and did not claim any dependents. Therefore, for HMP purposes, she has a household size of one. BEM 211 (January 2016), pp. 1-2.

133% of the annual FPL in 2019 for a household with one member is \$16,612.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,612.00. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added 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. 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 2019 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department testified that it used pay stubs submitted by Petitioner's employer in June 2019. The pay statements show that Petitioner receives income from employment in the amount of \$[REDACTED] bi-weekly. Although Petitioner questioned how her employer arrived at her earnings amount, Petitioner confirmed that she receives \$[REDACTED] bi-weekly. The Department stated it calculated Petitioner's yearly income to be \$[REDACTED] and testified that she exceeded the income limit under the HMP program. When using the MAGI methodology as stated above, Petitioner's bi-weekly payment of \$[REDACTED] multiplied by 26 (number of pay checks Petitioner would expect to receive in a year, as she is paid bi-weekly), the total amount is an income of \$[REDACTED] per year, which exceeds the income limit for a group size of one under the HMP program. This is also consistent with the paystubs provided by Petitioner's employer which show a year-to-date total of \$[REDACTED] through the first six months of the year.

For MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

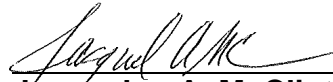
5 percent of the FPL for a group size of one is \$830.60. Petitioner's yearly income of \$[REDACTED] reduced by \$[REDACTED] is \$[REDACTED], which also exceeds the income limit under the HMP program for a group size of one.

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 acted in accordance with Department policy when it closed Petitioner's MA benefits effective August 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

MDHHS- [REDACTED]-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
MOAHR

Petitioner – Via First-Class Mail:

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