



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: October 4, 2019  
MOAHR Docket No.: 19-008489  
Agency No.: ██████████  
Petitioner: ██████████

**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 September 30, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Specialist.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) Program Healthy Michigan Plan (HMP) benefits 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. On July 5, 2019, the Department received Petitioner's Redetermination and verifications.
2. Petitioner is employed with ██████████ (Employer).
3. On June 14, 2019, Petitioner had gross wages of ██████████
4. On June 28, 2019, Petitioner had gross wages of ██████████.
5. On July 15, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that effective August 1, 2019, his MA

benefits would close because he had excess income for the HMP and did not meet any eligibility requirements for any other program.

6. On August 5, 2019, the Department received Petitioner's request for hearing disputing the closure of his MA benefits.

### **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 disputes the closure of his MA benefits based upon excess income for the HMP. 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 he pregnant, blind, or disabled, Petitioner does not qualify for any of programs listed above involving these eligibility factors. If Petitioner is eligible for benefits, he may qualify for MA under the HMP program as he meets all non-financial eligibility factors.

To determine whether Petitioner is eligible for HMP, there must first be a determination of his group size for MAGI purposes. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (February 2019), pp. 1-2. Therefore,

Petitioner's MA group size is one as he is single and has no dependents for tax purposes. 133% of the FPL for a group size of one is \$16,611.70 as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70 for a group size of one or \$1,384.30 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.* This figure is multiplied by the number of paychecks the client expects during the year to estimate income for the entire year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.*

Petitioner had wages of [REDACTED] and [REDACTED] in June 2019. Therefore, his monthly total wage was \$[REDACTED]. Petitioner does not have any deductions for retirement savings, healthcare coverage, or childcare. Therefore, his monthly MAGI income is \$[REDACTED] or [REDACTED]. At the hearing and in his hearing request, Petitioner argued that his income is variable from week to week, month to month, and season to season. Unfortunately, Petitioner did not adequately communicate the variability of his income to the Department before its determination of eligibility. MAGI policy requires the Department to evaluate eligibility based upon current income unless there is evidence to suggest variability. Thus, the Department was unable to consider this factor in making its decision. Since Petitioner's verified income was relatively similar, the Department could only consider the income presented.

The Department calculated Petitioner's monthly income as [REDACTED] under the "MA Budget Amount" or [REDACTED] annually as listed on the HCCDN. These figures are incorrect. The first figure is based upon the MA income calculations used for SSI-Related MA programs which is different than the MAGI-related MA programs. It is unclear how the Department arrived at the second figure because it does not follow the standardization procedure utilized for the Family Independence Program (FIP), Food Assistance Program (FAP), State Disability Assistance (SDA), Child Development and

Care (CDC) cases, or MAGI policy. BEM 505 (October 2017), pp. 1, 8-9. However, even when Petitioner's income is properly calculated using MAGI methodology, Petitioner's income is still greater than the HMP income limit.

An exception exists to the income limit rule if an individual's group income is within 5% of the FPL for the applicable group size, a disregard is applied in order to make the person eligible for MA. MREM, § 7.2. After consideration of the 5% disregard, the income limit is [REDACTED] or [REDACTED] per month. Petitioner's income is greater than the income limit even after the 5% disregard.

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 determined that Petitioner's income was greater than the HMP income limit and that he was not eligible for any other MA program.

### **DECISION AND ORDER**

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

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**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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:**

[REDACTED]  
[REDACTED]