



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 19, 2019  
MOAHR Docket No.: 19-008783  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 18, 2019, from Lansing, Michigan. Petitioner was represented by her attorney [REDACTED], and Petitioner testified on her behalf. The Department of Health and Human Services was represented by Sylvester Williams and India Smiley.

### **ISSUE**

Did the Department of Health and Human Services (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. On [REDACTED] [REDACTED] 2019, the Department received Petitioner's application for Medical Assistance (MA).
2. On March 14, 2019, the Department notified Petitioner that she was eligible for limited coverage Medical Assistance (MA) with a monthly deductible.
3. On March 20, 2019, the Department received Petitioner's request for a hearing.
4. In April of 2019, the Department received verification of medical expenses meeting Petitioner's monthly deductible and qualifying her for full coverage Medical Assistance (MA) as of May 1, 2019.

5. On May 22, 2019, the Michigan Office of Administrative Hearings and Rules (MOAHR) ordered the Department to redetermine Petitioner's eligibility for Medical Assistance (MA).
6. On August 6, 2019, the Department received Petitioner's request for a hearing.

### **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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.  
Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

On May 22, 2019, the Department was ordered by MOAHR to redetermine Petitioner's eligibility for MA benefits effective February 28, 2019. The Department has the burden of establishing that it fulfilled that order. The Department has failed to establish that it made a proper determination of Petitioner's eligibility for MA as of February 28, 2019, within a reasonable standard of promptness, and Petitioner's request for a hearing falls within the jurisdiction of MOAHR to hearing and issue a decision on her grievance.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

Petitioner is entitled to the most beneficial category of MA benefits that she meets the criteria. The Department has failed to establish that Petitioner is not eligible for Breast and Cervical Cancer Prevention and Control Program Medicaid benefits. Further, if Petitioner is not eligible for benefits under the MA-BCCP category, she is potentially eligible for MA under the HMP program.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- Have income at or below 133% Federal Poverty Level (FPL).

Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2019), p 1.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

The size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household. Parents and stepparents are treated the same. Individual family members may be eligible under different categories.

The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse
- Tax dependents

The household for a non- tax filer who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse
- The individual's natural, adopted and stepchildren under the age of 19 or under the age of 21 if a full-time student.
- If the individual is under the age of 19 (or under 21 if a full-time student), the group consists of individual's natural, adopted and stepparents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full-time student).

Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, p 12.

Family size means the number of persons counted as members of an individual's household. In the case of determining the family size of a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. In the case of determining the family size of other individuals who have a pregnant woman in their household, the pregnant woman is counted, at State option, as either 1 or 2 person(s) or as herself plus the number of children she is expected to deliver. 42 CFR 435.601(b).

The hearing record supports a finding that the Department has not properly determined whether Petitioner was placed in the most beneficial category of MA as of the month that the Department received her application for MA benefits.

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 Department policy when it determined Petitioner's eligibility for Medical Assistance (MA) as of February 28, 2019.

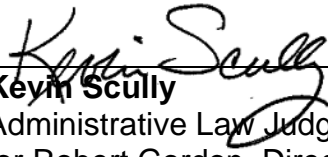
**DECISION AND ORDER**

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:

Reprocess Petitioner's February 28, 2019, application for Medical Assistance (MA) and initiate a determination of Petitioner's eligibility for Medical Assistance (MA) in the most beneficial category available as of the application date.

KS/hb

  
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Kevin Scully  
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

**Counsel for Petitioner**

Diamond Conley  
35 W. Huron  
Suite 701  
Pontiac, MI 48342

**DHHS**

Linda Gooden  
25620 W. 8 Mile Rd  
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

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