



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 23, 2019
MOAHR Docket No.: 19-009227
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, an in-person hearing was held on October 17, 2019, from ██████████ Michigan. Petitioner's husband, ██████████ appeared at the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by Debra Pulling, Eligibility Specialist, and Nati Campos, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner Medical Assistance (MA) program benefits effective September 1, 2019?

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 currently receiving MA benefits.
2. On July 12, 2019, Petitioner submitted paystubs for her new employment, which began in June 2019.
3. The Department redetermined the group's eligibility for MA benefits and on July 30, 2019, it sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that her MA benefits and her husband's MA benefits would close effective July 30, 2019 due to excess income.

4. On August 15, 2019, Petitioner's husband filed a request for hearing disputing the Department's actions as to the closure of his benefits only.

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 began working new employment in June 2019. As a result, she submitted her paystubs for June 21, 2019, and July 5, 2019. The Department testified that it add the two paychecks together and then multiplied the earnings by 12 to determine her monthly income. To determine financial eligibility under Healthy Michigan Plan (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.*

The Department testified that after it added the two paystubs together to determine the estimated monthly income, it multiple that amount by 12 to determine Petitioner's

annual income. Petitioner's husband testified that Petitioner was only unemployed for one month of 2019. Petitioner's husband also testified that prior to her new employment, Petitioner earned more than she currently does with the new employment. If Petitioner earned her current salary for one year, she would exceed the income limit for HMP. Because Petitioner testified that his wife earned more than she currently does and was only unemployed for one month, the income is likely higher than determined by the Department, and thus, over the income limit to receive HMP. Petitioner's husband testified that Petitioner has medical insurance available to her through her new employment. The medical insurance is also available to Petitioner; however, it will cost significantly more to add Petitioner to the medical coverage at this wife's employment.

Under Department policy, 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, the least amount of excess income or the lowest cost share. BEM 105 (January 2016), p. 2. Petitioner's husband testified that he has been deemed disabled by the Social Security Administration. Petitioner's husband confirmed that the household size is two (2); and as such, it does not appear as if the group have minor children residing in the home. The Department testified that it did not consider Petitioner's husband for AD Care or a deductible program. Given that the group's income exceeds the income limit for HMP, it will also exceed the income limit for AD Care. However, it is also likely that Petitioner is eligible for MA subject to a deductible. As such, it is found that the Department has failed to consider the most beneficial program available to Petitioner's husband.

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 closed Petitioner's husband's MA benefits effective September 1, 2019, without considering him for the most beneficial MA program.

DECISION AND ORDER

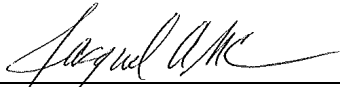
Accordingly, the Department's decision is **REVERSED**.

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:

1. Reinstate and redetermine Petitioner's husband's eligibility for MA benefits, effective September 1, 2019;
2. If Petitioner's husband was eligible for supplements, issues MA supplements for benefits Petitioner's husband was eligible to receive but did not, effective September 1, 2019; and

3. Notify Petitioner in writing of its decision.

JAM/



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

DHHS (via electronic mail)

Pam Farnsworth
MDHHS-Monroe
BSC4
D Smith
EQAD

Petitioner (via first class mail)

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