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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 30, 2019  
MOAHR Docket No.: 19-009604  
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 October 28, 2019, from ██████████ Michigan. Petitioner represented herself. ██████████ who is Petitioner's daughter, served as the Spanish Interpreter for the hearing. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA) benefits effective September 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 a recipient of MA benefits.
2. Petitioner submitted a timely medical Redetermination in August 2019.
3. Petitioner's husband receives \$1,968.50 in Retirement, Survivors and Disability Insurance (RSDI) income from the Social Security Administration (SSA).
4. On August 9, 2019, the Department processed the Redetermination.

5. Also, on August 9, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she was ineligible for MA benefits effective September 1, 2019 due to excess income.
6. On September 5, 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).

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. Petitioner completed a redetermination and her MA eligibility was reviewed by the Department. On August 9, 2019, the Department advised Petitioner his MA benefit case was closing effective September 1, 2019, ongoing.

The Department concluded that Petitioner was not eligible for Healthy Michigan Plan (HMP) because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (January 2019), 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 and her husband do not have any dependent in which they claim on their taxes. Therefore, for HMP purposes, she has a household size of two. BEM 211 (January 2016), pp. 1-2.

133% of the annual FPL in 2019 for a household with two members is \$22,490.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$22,490.00. 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, childcare, 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 Petitioner's husband receives \$1,968.50 each month in RSDI income from the SSA. Petitioner confirmed that her husband receives this income. When Petitioner's monthly income is multiplied by 12, his annual income is \$23,622.00, which exceeds the income limit for a group size of one under the HMP program.

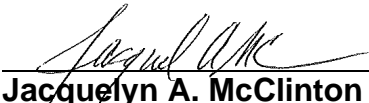
For MAGI-related MA programs, the Department allows a five percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat five percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the 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. Five percent of the FPL for a group size of one is \$1,124.50. Petitioner's yearly income of \$23,622.00 reduced by \$1,124.50 is \$22,497.50, which is over the income limit by \$7.50. Again, the five percent disregard is only applied to make someone eligible. In this case, it would not make Petitioner eligible and, therefore, is not applied. As such, it is found that the Department properly determined Petitioner ineligible 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 acted in accordance with Department policy when it determined that Petitioner was ineligible for MA benefits effective September 1, 2019.

**DECISION AND ORDER**

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

JAM/jaf

  
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**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)

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