



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 20, 2019
MOAHR Docket No.: 19-011072
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 November 13, 2019, from Lansing, Michigan. The Petitioner, [REDACTED] was represented by herself. [REDACTED] Arabic Interpreter, appeared to interpret for Petitioner. The Department of Health and Human Services (Department or Respondent) was represented by Elizabeth Davis, Eligibility Specialist, and Gloria Thompson, Family Independence Manager.

Respondent's Exhibit A pages 1-26 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) and cancel Petitioner's Medical Assistance (MA) benefits?

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 Medical Assistance benefit recipient.
2. On [REDACTED], 2019 Petitioner filed an application for SER benefits.
3. On August 9, 2019 the Department cancelled Petitioner's Medical Assistance case indicating that Petitioner had excess income.

4. On August 9, 2019 the Department sent Petitioner a Health Coverage Determination Notice, indicating cancellation of Medical Assistance Program benefits because Petitioner had excess income.
5. On August 13, 2019 the Department denied Petitioner's SER application, indicating that the income/asset copayment is equal to or greater than the amount needed to resolve the emergency.
6. Petitioner did not have an energy gas or electric shut off on his accounts.
7. On [REDACTED] [REDACTED] the Petitioner filed a Request for Hearing to contest the Department's negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). 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 of that decision. BAM 600.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Pertinent Department Policy dictates:

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May

31. Requests for those services will be denied June 1 through October 31. (State Emergency Relief Manual (ERM) 301, page 1)

Verify and count all non-excluded assets of State Emergency Relief (SER) group members for all SER services with every application. Count only available assets when determining SER eligibility. Consider an asset totally available unless it is claimed and verified that a portion of the asset's value belongs to another individual. (ERM 205 page 1)

The SER group must use countable cash assets to assist in resolving their emergency. The protected cash asset limit is \$500. Exclude the first \$500 of a SER group's cash assets. The amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. See ERM 208 for instructions on using excess cash assets as a copayment. (ERM 205 page 1)

In Petitioner's case it was determined that Petitioner had liquid assets in the amount of \$[REDACTED]. The cash asset limit is \$500. $\$[REDACTED] - \$500 = \$[REDACTED]$ in excess cash assets and an asset co-payment of \$[REDACTED] which exceeded the services requested (Heat \$194 & Non-Heath electricity \$245.68). Petitioner's income/asset copayment is equal to or greater than the amount needed to resolve the emergency. (ERM 103)

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.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The Healthy Michigan Plan provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014.

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) Cost Sharing.

The Healthy Michigan Plan has beneficiary cost sharing obligations. Cost sharing includes copays and contributions based on income, when applicable. Copayments for

services may apply to HMP beneficiaries. Prior to enrollment in a health plan, beneficiaries are eligible to receive Healthy Michigan Plan services through the Fee-for-Service system. Copays are collected at the point of service, with the exception of chronic conditions and preventive services. Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). BEM 137, pages 1-3

Department policy requires the Department to count and budget all income received that is not specifically excluded. There are three main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization, or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his/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. Petitioner has a group size of five people. According to Petitioner's attached paystubs, Petitioner earns \$ [REDACTED] per hour. As of August 2, 2019, Petitioner had gross income in the amount of \$ [REDACTED] divided by seven months = \$ [REDACTED] average monthly income x 12 months = \$ [REDACTED] which is in excess of the yearly income limit for eligibility for HMP.

133% of the annual FPL in 2018 for a household with five members is \$40,126.10. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual countable income cannot exceed \$40,126.10. 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. The Department's decision must be upheld under the circumstances.

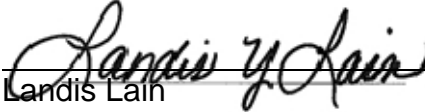
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department has established by a preponderance of evidence through the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it cancelled Petitioner's Medical Assistance for excess income and when it denied Petitioner's SER application for excess income/asset copay.

Accordingly, the Department's actions and decision are **AFFIRMED**.

It is so **ORDERED**.

LL/nr



Landis Lain
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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