



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: December 3, 2019  
MOAHR Docket No.: 19-011661  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 27, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Hearings Coordinator.

### **ISSUE**

Did the Department properly close Petitioner's Medical (MA) case 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 September 18, 2019, the Respondent issued a Healthcare Determination Notice closing Petitioner's MA case on the grounds of excess income and opening a \$748.00 deductible medical case.
2. The Department assessed Petitioner's eligibility for all MA categories.
3. Petitioner's expenses exceed her income.
4. On September 22, 2019, Petitioner filed a hearing request.

## **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.

Applicable policy and procedure to the facts herein are found primarily at BEM 137, 166, 501, 500, and 503; RFT 246.

As a beneficiary or applicant for benefit welfare services, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner.

In this case, Petitioner requested a hearing arguing that her expenses exceed her income, that she cannot afford a deductible, and that she had to go back to working to accumulate enough credits to be eligible for certain Medicare and social security benefits.

The Department does not dispute Petitioner's representations but alleges that it has reviewed all possible MA categories. The only category Petitioner is eligible for is the spend down MA category.

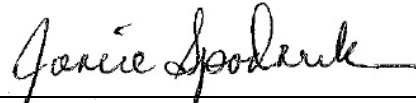
It is not disputed that Petitioner's expenses exceed her income. However, such is not relevant to the issue here. The issue here, centers on Petitioner's income eligibility. Petitioner does have multiple sources of income, of which she does not dispute, except as to the amount of her earned income.

Petitioner also argues that the weeks the Department used in calculating her eligibility at review was higher than normal, as she worked extra hours. However, federal and state law require the Department to utilize the budget verification of income reported by the recipient. Petitioner understands that should her average hours decrease, she can submit any verification(s) with proof of such, which the Department can use in reassessing MA eligibility.

As this case stands, the undersigned is required to uphold the Department's actions as the evidence of record supports the actions taken by Department and thus, the actions are upheld.

**DECISION AND ORDER**

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



JS/ml

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Janice Spodarek  
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**

Dawn Tromontine  
41227 Mound Rd.  
Sterling Heights, MI 48314

Macomb 36 County DHHS – Via  
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BSC4 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED] MI [REDACTED]