



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 30, 2019
MOAHR Docket No.: 19-012338
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 December 18, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Brian Roedema, Assistance Payments Supervisor, and Elva Mata, Eligibility Specialist. During the hearing, a 33-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-33.

ISSUE

Did the Department properly determine that Petitioner and her husband, Habib, were not eligible for Medicaid (MA) benefits, effective [REDACTED], 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 lives in a household that includes herself, her husband [REDACTED], and their minor child, [REDACTED].
2. On [REDACTED], 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding the household's ongoing eligibility for MA benefits. Exhibit A, pp. 6-13.
3. On [REDACTED] 2019, Petitioner returned the completed Redetermination to the Department. On the completed Redetermination, Petitioner indicated that the

household had income from three sources: (1) Petitioner's [REDACTED] income; (2) Petitioner's job with [REDACTED]; and (3) [REDACTED] rental income. In relevant part, Petitioner stated that she received \$[REDACTED] every two weeks from her employment with [REDACTED]. Exhibit A, pp. 6-13.

4. On [REDACTED] 2019, Petitioner provided to the Department a copy of a summary of the terms of her appointment to work as a [REDACTED]. The document indicated that Petitioner would receive a total salary of \$[REDACTED] over the course of her eight-month appointment, with her first pay received on [REDACTED], 2019 and last pay received [REDACTED], 2020. Thus, over those eight months, Petitioner was scheduled to receive \$[REDACTED] per month in earned income from that appointment. Exhibit A, pp. 3-5.
5. On [REDACTED], 2019, Petitioner submitted to the Department documentation showing that the household receives \$[REDACTED] per month in rental income. Exhibit A, p. 14.
6. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that the MA cases of Petitioner and [REDACTED] were closing, effective [REDACTED], 2019, as a result of the Department's determination that the household's income exceeded the limit for program eligibility. Exhibit A, pp. 16-21.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to 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 objects to the Department's determination that Petitioner and her husband [REDACTED] are ineligible for MA benefits, effective December 1, 2019, as a result of the Department's determination that household income exceeded the limit for program eligibility.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2019), p. 1.

Petitioner and her husband are under age 65, not disabled, and not enrolled in Medicare. Thus, they are potentially eligible for MA under the HMP if the household's income does not exceed 133% of the FPL applicable to the individual's group size. In this case, the parties agree, and the facts dictate, that the household size is three.

133% of the 2019 annual FPL for a household with three members is \$28,369. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$28,369. This figure breaks down a monthly income threshold of \$2,364.¹ However, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2. 5% of the FPL for a three-person group is \$1,067, bringing the total annual income threshold to \$29,436. This figure breaks down to a monthly income threshold of \$2,453.²

To determine financial eligibility under 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), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf. However, in determining current monthly income, the Department must account for reasonably predicable decreases in income. *Id.*

The Department explained that it budgeted income from three sources when determining the household's monthly income: (1) Petitioner's job with [REDACTED]; (2) Petitioner's job with [REDACTED] and (3) [REDACTED] rental income. To substantiate its decisions, the Department presented the contract showing that Petitioner would receive \$[REDACTED] per month over the eight-month term with [REDACTED] and checks showing that

¹ [REDACTED] divided by twelve.

² [REDACTED] divided by twelve.

Habib received \$[REDACTED] per month in rental income. For [REDACTED], the only evidence related to Petitioner's income was the statement on the Redetermination that she received \$[REDACTED] every two weeks from that job.

Adding together the income from Petitioner's employment with [REDACTED] and [REDACTED] results in a total of \$[REDACTED] in income per month, which is [REDACTED] under the threshold for monthly eligibility. If [REDACTED] rental income counts for more than that amount, Petitioner and [REDACTED] were properly found ineligible. If the rental income counts for less than that amount, Petitioner and [REDACTED] should not have been found ineligible on the basis of excess income.

According to IRS rules that are applicable to the determination of MAGI, individuals are entitled to a deduction for numerous expenses associated with rental income, including utilities, taxes, interest, and mortgage payments, resulting in a final MAGI number that includes net rental income. IRS Pub 17 (2018). The federal government provides further guidance in a website explaining how to determine MAGI income for the purposes of determining healthcare eligibility; that guidance informs readers that MAGI methodology takes into consideration net rental income. <https://www.healthcare.gov/income-and-household-information/income/>. Consistent with the MAGI methodology rules, the Department considers only net rental income by allowing for deductions of expenses related to rental income. BEM 504 (January 2018), pp. 1-2. The Department defines net rental income as the rental income minus 60% of rental income or rental income minus actual reported and verified expenses. BEM 504, p. 2.

Habib receives \$[REDACTED] per month in rental income, which the Department erroneously budgeted in full. Properly discounting 60% of the gross rental income results in a final net rental income figure of \$[REDACTED].³ When the \$[REDACTED] is added to the \$[REDACTED] attributable to Petitioner's earned income from her employment, the total monthly income for the household is \$[REDACTED]. That amount exceeds the limit for program eligibility of \$[REDACTED]. Thus, Petitioner and [REDACTED] were properly found ineligible for MA benefits under the HMP, effective [REDACTED], 2019.

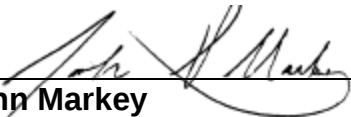
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the MA benefits cases of Petitioner and [REDACTED], effective [REDACTED], 2019.

³ Petitioner did not provide evidence of expenses related to the rental income except to say that homeowner's association fees were somewhere around \$[REDACTED] per month, which is much less than 60% of gross rental income.

DECISION AND ORDER

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

JM/tm



John Markey
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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
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Petitioner

[REDACTED]
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[REDACTED]

cc: ME—D. Smith; EQADHShearings
AP Specialist Kent County (3)