



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: July 11, 2019
MOAHR Docket No.: 19-005070
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 June 19, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Tracie Old, Eligibility Specialist, and Amy Turner, Assistance Payments Supervisor. During the hearing, a 7-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-7.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) benefits case under the Freedom to Work (FTW) category, effective June 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 was an ongoing recipient of MA benefits under the FTW category.
2. On April 2, 2019, the Department issued to Petitioner a document purporting to require Petitioner to pay a monthly premium of \$46.08 to continue his FTW coverage. Exhibit A, p. 7.
3. When Petitioner received the bill, he called the number provided thereon to ask questions. The individual he spoke with indicated that the bill was issued in error and that Petitioner did not have to pay the bill.

4. On April 22, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA benefits case was closing, effective June 1, 2019. Exhibit A, pp. 1-3.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's April 22, 2019 Health Care Coverage Determination Notice.

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 was an ongoing recipient of MA benefits under the FTW category until the Department closed his MA benefits case, effective June 1, 2019. The Department's position is that it properly closed Petitioner's case after Petitioner failed to pay a premium that was due. Petitioner acknowledges not paying the premium. However, Petitioner's position is that a premium should not have been imposed in the first place and that he only failed to pay the premium on the advice of a Department worker who told him not to pay the premium.

As a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, p. 3. The Department determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. BEM 174, p. 3. The Department determines income deductions using BEM 540 (for children) or 541 (for adults). BEM 174. Unemployment compensation benefits are not countable income for FTW. BEM 174, p. 3.

Petitioner was not married, and per policy, her fiscal group size for SSI-related MA benefits is one. BEM 211 (February 2019), p. 8. 250% of the annual FPL in 2019 for a household with one member is \$31,225. See <https://aspe.hhs.gov/poverty-guidelines>.

As Petitioner's income was below that amount, Petitioner was eligible for FTW coverage.

Depending on an individual's income, FTW coverage may be provided either with or without a premium. BEM 174, p. 3. There are no premiums for individuals with Modified Adjusted Gross Income (MAGI) less than 138% of the FPL. BEM 174, p. 3. A premium of 2.5% of income will be charged for an individual with MAGI income of between 138% of the FPL and \$75,000 annually. BEM 174, p. 3.

The Department's April 22, 2019 Health Care Coverage Determination Notice indicated that Petitioner's annual income was determined to be \$22,116, which is between 138% of the FPL and \$75,000. Based on that annual income, Petitioner's annual premium for FTW was properly designated to be \$522.90.¹ On a monthly basis, Petitioner's premium was determined to be \$46.08. That is the amount requested in the April 2, 2019 premium request sent by the Department. However, there is nothing in the record indicating that Petitioner was informed he owed any premiums until the April 2, 2019 request, which indicated that Petitioner was at least two months behind on his alleged premiums.

When asked to justify why Petitioner had a premium, how it determined Petitioner's annual income, and how Petitioner was notified of the imposition of the premium, the Department was unable to do so. When combined with the fact that Petitioner was told on the telephone not to pay the premium when he called to ask about it, the Department has failed to meet its burden of proving that it acted in accordance with law and Department policy. Petitioner may or may not be subject to premiums for his MA coverage from the Department. However, whether he is or is not, Petitioner is entitled to a clear directive from the Department concerning his obligations in advance of any action taken by the Department.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA case under the FTW category, effective June 1, 2019.

DECISION AND ORDER

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

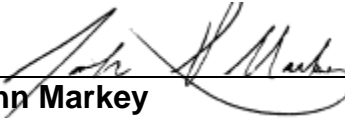
THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's MA case under the FTW back to the date of closure;

¹ This number is 2.5% of Petitioner's annual income.

2. Redetermine Petitioner's MA benefits eligibility, effective June 1, 2019, ongoing;
3. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy in requested and obtaining verifications;
4. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issued; and
5. Notify Petitioner in writing of its decisions.

JM/cg



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

Via Email:

MDHHS-Jackson-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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