



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]

Date Mailed: August 23, 2019
MOAHR Docket No.: 19-007671
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 21, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case for her, her husband and their two minor children?

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 with her husband and three children, a 19-year-old and two minors.
2. Petitioner and her husband are tax filers who claim all three children as their tax dependents.
3. Petitioner's family members were ongoing recipients of MA under Low-Income Family (LIF) programs, Parent/Caretaker Relatives (PCR) for Petitioner and her husband and LIF Under 19 for the children.
4. On June 3, 2019, Petitioner filed a renewal form to assess her family's ongoing MA eligibility (Exhibit A, pp. 7-10).

5. On June 19, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her 19-year-old was approved for full-coverage MA but she and her husband were ineligible for MA because they were not under 21, pregnant, caretakers of a minor child in the home, over 65, blind or disabled. The notice indicated that eligibility was based for Petitioner on \$14,400 in income and a health care household size of 4 and for her husband on \$0 in income and a health care household size of 4 (Exhibit A, pp. 11-12).
6. On July 8, 2019, the Department received Petitioner's request for hearing disputing the Department's MA denials.

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.

At the hearing, the Department explained that, at the time that Petitioner submitted the renewal form, she and her family had been receiving MA under LIF programs. LIF is a MAGI (Modified Adjusted Gross Income)-related MA category available to children and to adults with a dependent child when the household has income under 54% of the federal poverty level (FPL) based on group size. BEM 110 (April 1, 2018), p. 1. An individual's group size for MAGI purposes requires consideration of the client's tax filing status or, if not a tax filer, the individual's household. 42 CFR 435.603(f)(1); BEM 211 (July 2019), p. 1. If the individual is not claimed as a tax dependent and expects to file a tax return for the taxable year in which an eligibility determination is made, the household consists of the taxpayer and all persons the individual expects to claim as a tax dependent. 42 CFR 435.603(f)(1); BEM 211, p. 2. If the individual is the tax dependent of someone else, his or her group consists of, in relevant part, the household of the tax filer claiming the individual as a tax dependent. 42 CFR 435.603(f)(2); BEM 211, pp. 2-3.

Here, Petitioner and her husband were tax filers who claimed their three children as dependents. Therefore, the MA household size for MAGI-related purposes for each

member of the household was five. 54% of the FPL for a five-person group is \$16,291.80. Therefore, the household would be ineligible for LIF if the income exceeded \$16,291.80. In those cases where the income is over the income limit but not more than 5% over the limit, a 5% disregard is applied to make the person eligible for MA. BEM 500, p. 5.

At the hearing, the Department presented no evidence concerning the income it used to calculate Petitioner's household's eligibility. Rather, the Department acknowledged that it erred when it closed the MA cases for Petitioner, her husband, and their two minor sons and testified that upon receipt of the hearing request it had reprocessed the case. Because Petitioner identified that she had self-employment income (Exhibit A, p. 9) in her renewal form, it sought verification of the income. However, the Department had not taken any subsequent action on the case, and the matter continued to pend for verification.

Individuals who qualify under more than one MA category are entitled to MA under the most beneficial category, which is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105 (April 2017), p. 2. Here, Petitioner's family is potentially eligible for MA under MAGI-related programs (LIF, Healthy Michigan Plan (HMP), Other Healthy Kids (OHK), Healthy Kids Expansion (HKE) and MiChild). BEM 131 (June 2015), p. 1; BEM 130 (July 2016), p. 1; BEM 137 (January 2019), p. 1. Even if the household's income exceeds the income limits for eligibility for any of these MAGI-related programs, Petitioner and her husband, as the parents of minor children, and their children are potentially eligible for MA under Group 2 deductible programs (Group 2 Caretaker (G2C) for Petitioner and her husband and Group 2 Persons Under Age 21 (G2U) for the minor children). BEM 135 (October 2015), p. 1, p. 10; BEM 132 (April 2018), pp. 1-2. In this case, the Department has failed to show that Petitioner's household was ineligible for any MA coverage.

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 household's MA cases.

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 the MA cases for Petitioner, her husband and their minor children effective July 1, 2019;

2. Reprocess the household's eligibility;
3. If Petitioner, her husband, and the minor children are eligible for MA coverage, provide them with the most beneficial coverage for July 1, 2019 ongoing;
4. Notify Petitioner in writing of its decision.



AE/tm

Alice C. Elkin

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

[REDACTED]
[REDACTED]
[REDACTED]
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: MA- [REDACTED]; EQADHShearings
AP Specialist (2)