



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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Date Mailed: January 10, 2020
MOAHR Docket No.: 19-011540
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 9, 2019, from ██████████ Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Kimberly Garrett-Goree, Eligibility Specialist.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) case for Healthy Michigan Plan (HMP) 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. The Petitioner was an ongoing recipient of HMP. The Petitioner completed a medical redetermination on October 16, 2019, and was notified that she was no longer eligible for HMP due to her countable income exceeding the limit for HMP.
2. On October 16, 2019, the Department issued a Health Care Coverage Determination Notice which advised her that her countable income of \$27,360.00 and with a household size of one exceeded the HMP income limit of \$16,611.70. Exhibit D.
3. In her redetermination, Petitioner indicated that she had a son, ██████████ (DOB ██████████), who was living with her; and thus, her household size was two

members. The HMP limit for a household size of two members as shown on the Notice was \$22,490.30. Exhibit A, p. 7.

4. In the redetermination, the Petitioner reported her yearly income to be \$20,000. Exhibit A, p. 11.
5. The Petitioner was employed and had income from employment from [REDACTED] and [REDACTED] based upon the employment budget summary. The monthly MA budget amount used by the Department for Petitioner's income from [REDACTED] was \$348.00. The MA budget amount for [REDACTED] was \$1,760.00 per month. Exhibit B, pp. 14-16.
6. The Petitioner requested a timely hearing on October 21, 2019, protesting the closure of her MA.

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.

Petitioner completed a redetermination related to MA benefit case, which was submitted on August 12, 2019.

The Department concluded that Petitioner was not eligible for HMP because her household income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if their household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a five percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The five percent disregard is applied to the highest income threshold. BEM 500, p. 5. The five percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner listed a household size of two. Therefore, for HMP purposes, Petitioner has a household size of two. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2019 for a household with two members is \$23,335.80. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of two is \$1,944.65. Therefore, to be income eligible for HMP, Petitioner's household income cannot exceed \$23,335.80 annually or \$1,944.65 monthly. 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. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

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 currently monthly income and family size. See: https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented an Employment Budget Summary, no paystubs were submitted. Based upon the Summary, the Petitioner's MA budget amount from [REDACTED] was \$348.00 a month and from [REDACTED] \$1,760.00 a month. These two monthly incomes were utilized to determine Petitioner's household income. Because paystubs were not submitted, it could not be determined if Petitioner had any deductions for medical insurance or retirement savings. Petitioner's total income October 2019 was \$2,108.00. Thus, the Department correctly determined that Petitioner's monthly income exceeded the HMP limit for a household size of two of \$1,994.65.

In addition, because a redetermination was being conducted, the Department was required to conduct an ex parte review to consider Petitioner's eligibility for all MA categories; see BAM115 and BAM 220. BAM 210 (October 2019), p. 2. There was no evidence that such review was made before the Department closed the Petitioner's

Medical Assistance. After a review of the evidence, it is determined that the Department should have conducted an ex parte review and considered the Petitioner's eligibility for Group 2C because the Petitioner is a caretaker of a minor child. For this category of assistance, Department policy provides:

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. Apply the Medicaid policies in BEM 500, 530 and 536 to determine net income.

If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 544

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. Income eligibility exists under G2C when net income does not exceed the Group 2 needs in BEM 544. BEM 135 (October 2015), p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible under BEM 545. BEM 135, p. 2. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1.

It is unclear why the Department did not consider Petitioner's eligibility under the Group 2C as she is a caretaker of a minor child. Even if Petitioner's net income exceeded the Group 2 needs, she would still be eligible for MA benefits subject to a deductible.

Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case.

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 Petitioner's HMP benefits due to her income exceeding the HMP income limit. However, the Department did not act in accordance with Department policy when it closed the Petitioner's HMP without conducting an ex parte review and determining if Petitioner was eligible for Group 2C Medicaid based on her caretaker of a minor child status.

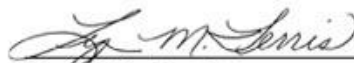
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to closure of Petitioner's HMP medical assistance due to her income exceeding the HMP limit for a household size of two persons. **REVERSED IN PART** with respect to the Department failure to consider whether the Petitioner was eligible for medical assistance for Group 2C or Medicaid with a deductible.

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. Redetermine Petitioner's MA eligibility as of November 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

LMF/jaf



Lynn M. Ferris
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 (via electronic mail)

Linda Gooden
MDHHS-[REDACTED]-Hearings
BSC4
D Smith
EQAD

Petitioner (via first class mail)

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