



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: March 13, 2020
MOAHR Docket No.: 20-000453
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 February 24, 2020, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's and her son's Medicaid (MA) cases?

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 and her 21-year-old son were ongoing recipients of MA under the Healthy Michigan Plan (HMP).'
2. Both Petitioner and her son are employed by [REDACTED] (Employer 1).
3. On September 17, 2019, the Department sent Petitioner a New Hire Client Notice requesting information about Petitioner's son's employment with [REDACTED] (Employer 2).
4. On October 10, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her son's MA case was closing because he had failed to verify requested information (Exhibit A, pp. 5-7).

5. The Department subsequently became aware that it had received Petitioner's son's employment information, including paystubs for payments made on September 6 and September 20, 2019 (Exhibit A, pp. 12-13).
6. After confirming that Petitioner's son continued his employment with Employer 1 (Exhibit A, p. 18), the Department reprocessed Petitioner and her son's MA eligibility taking into consideration this new income.
7. On October 23, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was not eligible for MA and her MA case would close effective December 1, 2019 (Exhibit A, pp. 8-11).
8. The Department also closed Petitioner's son's MA case.
9. On January 7, 2020, the Department received Petitioner's request for hearing disputing the closure of her and her son's MA cases (Exhibit A, pp. 20-27).

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 disputed the closure of her and her son's MA cases. The evidence at the hearing showed that both had been receiving MA under HMP. The Department explained that, after it took into consideration Petitioner's son's income from his second job at Employer 2, Petitioner's household's income resulting in both Petitioner and her son having excess income for HMP eligibility.

MA is available to individuals under SSI-related MA categories for individuals who are disabled, blind or aged (over 65) or Modified Adjusted Gross Income (MAGI)-related categories for children under 19, parents and caretakers of minor children, pregnant women, and individuals who meet the financial and nonfinancial eligibility criteria for HMP. BEM 105 (April 2017), p. 1. At the hearing, Petitioner confirmed that she was not blind, disabled, over age 65, under age 19, pregnant, the parent of minor children, or a Medicare recipient. Although she alleged that her son had a disease that was resulting in his blindness, this information was not available to the Department at the time of its

MA assessment for Petitioner's son. Thus, based on the information available at that time the Department processed Petitioner and her son's MA eligibility, both Petitioner and her son were potentially eligible for MA under only HMP. BEM 137 (January 2019), p. 1.

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 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, p. 1. An individual is income eligible for HMP if his household's income does not exceed 133% of the federal poverty level (FPL) applicable to the individual's group size. BEM 137, pp. 1, 4.

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). 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). An individual claimed as a tax dependent has a household consisting of the household of the taxpayer who claims him as a tax dependent. 42 CFR 435.603(f)(2). If the individual does not file taxes, an individual's group consists of the individual and, if living with the individual, the spouse and children up to age 21, if full-time students. 42 CFR 435.603(f)(3).

The Department testified that it determined that Petitioner's and her son's group size for MAGI-purposes was two. Because Petitioner testified that she filed taxes and claimed her son as her tax dependent, Petitioner and her son were each properly characterized as having a two-person group. BEM 211 (July 2019), pp. 1-2. For a two-person group, the income limit for HMP eligibility in 2019 was \$22,490.30. <https://www.federalregister.gov/documents/2019/02/01/2019-00621/annual-update-of-the-hhs-poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and her son's combined annual income cannot exceed \$22,490.30 (or \$1,874.19 monthly). A 5% disregard, which may be applied to make someone MA eligible, raises the applicable FPL limit by 5%. BEM 500, p. 5. This would raise the income limit for HMP eligibility to \$23,335.80 (or \$1,944.65 monthly).

To determine financial eligibility for MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/> 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. https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented a printout of the group's MAGI "countable income summary by individual" that showed that it based the group's HMP income eligibility on Petitioner's monthly income from Employer 1 of \$635 and Petitioner's son's monthly income from Employer 1 of \$1,039 and from Employer 2 of \$642 (Exhibit A, p. 17). Because this income totals \$2,316, it exceeds the HMP monthly income limit. While the information on the printout is not consistent with the information presented in the employment budget summary or the paystubs from Petitioner's son's employment with Employer 2 (Exhibit A, pp. 12-16), even when the lowest current monthly income amounts from each employer are considered, Petitioner and her son's household income exceeds the HMP monthly income limit of \$1,874 (or \$1,944.65 when the 5% disregard is applied). Therefore, the Department properly determined that Petitioner and her son were no longer eligible for HMP. Because, based on the information available to it at the time, Petitioner and her son were not eligible for any other MA category, the Department properly closed the MA cases for both.

At the hearing, Petitioner testified that her son was going blind. She is advised that he can reapply for MA asserting his disability for a determination of his eligibility for disability-based MA. Further, Petitioner and her son can reapply if their income changes.

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 Petitioner and her son's MA cases.

DECISION AND ORDER

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

ACE/tlf



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

Via Email:

MDHHS-Kent-Hearings
BSC3 Hearing Decisions
EQAD

[REDACTED]
[REDACTED]

Petitioner – Via First-Class Mail:

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