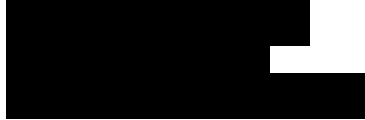




GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: March 6, 2020  
MOAHR Docket No.: 20-000507  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 March 2, 2020, from Detroit, Michigan. Petitioner was present with his brother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) program eligibility?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2019, Petitioner submitted an application for MA benefits.
2. Petitioner's household consisted of himself and his seven children.
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) in the gross monthly amount of \$1,495 (Exhibit A, p. 11).
4. On December 27, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was approved for MA benefits subject to a deductible effective November 1, 2019, ongoing (Exhibit A, pp. 6-9).

5. On January 9, 2020, Petitioner submitted a request for hearing disputing the Department's decision.

### **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 disputing the Department's decision to place him in an MA program subject to a deductible. Petitioner stated he was not disputing the amount of the deductible. Petitioner testified that he previously had full-coverage MA and believed he was still entitled to full-coverage MA benefits. The Department determined Petitioner was only eligible for MA benefits under the Group 2 Caretaker/Relative (G2C) program subject to a monthly deductible.

The Department testified that Petitioner was not eligible for MA benefits under the full-coverage Ad-Care program due to excess income. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner received \$1,495 per month in RSDI benefits at the time of the application. BEM 541 (January 2018), p. 3. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163, p. 2. The income limit for AD-Care for a one-person MA group is \$1,061. (100 percent of the Federal Poverty Level plus the \$20 disregard for RSDI income). RFT 242 (April 2019), p. 1; BEM 541 (January 2018), p. 3. Because Petitioner's monthly household income exceeds \$1,061, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

The Department testified that Petitioner's eligibility under the Low Income Families (LIF) program was not considered. LIF is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 110 (January 2014), p. 1. Eligibility for LIF is derived after a successful MAGI-related eligibility determination for either Parent/Caretaker Relative

(PCR) or Children Under 19. BEM 110, p. 1. Adults with a dependent child and income under 54% of the Federal Poverty Level (FPL) will be considered LIF eligible. BEM 110, p. 1.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual and, if living with the individual, the individual's natural, adopted and stepchildren under the age of 19 or under the age of 21 if a full-time student. BEM 211, p. 2.

It is unclear why the Department did not consider Petitioner's eligibility under the LIF program. Petitioner had at least one minor child in his household. Therefore, Petitioner would be potentially eligible for LIF. Petitioner also has six other children in the household. Petitioner stated he intended to file a tax return but has not done so yet this year. Petitioner stated he often does not file taxes. As such, Petitioner's group would be based on an individual who does not file taxes. Petitioner does have another child that is 18 years old and is a full-time high school student. Additionally, Petitioner stated he has other children who are full-time college students. Any child that is under 21 that is a full-time student would be in his MAGI based MA group. It is unclear as to if the Department considered Petitioner's eligibility under LIF or what group size would have been used. Therefore, the Department failed to establish that it properly determined Petitioner's MA eligibility.

### **DECISION AND ORDER**

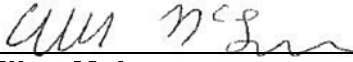
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility. 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. Redetermine Petitioner's MA eligibility as of November 1, 2019, ongoing;
2. Provide Petitioner with MA benefits he is entitled to receive; and

3. Notify Petitioner of its MA decision in writing.

EM/cg

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**Ellen McLemore**  
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-Macomb-12-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

