



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: July 30, 2020
MOAHR Docket No.: 20-004184
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 July 29, 2020 from separate locations due to COVID-19. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Kenika Bradley, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program?

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 is [REDACTED] years old.
2. Petitioner is not blind, disabled, or pregnant.
3. On February 27, 2020, the Department received Petitioner's completed Redetermination listing income from employment for herself, Retirement Survivors Disability Insurance (RSDI) income for her husband in the amount of \$800.00 per month, and her [REDACTED]-year old daughter as a tax dependent.
4. On the same day, the Department also received a copy of Petitioner's paystubs from employment for pay date February 7, 2020 in the amount of \$879.77 and for pay date February 21, 2020 in the amount of \$654.68.

5. On March 9, 2020, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective April 1, 2020, she was ineligible for MA benefits because she was not under age 21, over age 65, blind, disabled, a caretaker of someone under age 19, or pregnant and because her income was greater than the income limit for her group size under the Healthy Michigan Plan (HMP).
6. On March 23, 2020, the Department received a Request for Hearing from Petitioner disputing the closure of her MA benefits.

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 disputes the Department's closure of her MA benefits. MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (January 2020), p. 1. HMP 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 Modified Adjusted Gross Income (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 (January 2020), p. 1; Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 1.2.

Since Petitioner is not under 21 or over 64, nor is she pregnant, blind, or disabled, Petitioner does not qualify for any of programs listed above involving these eligibility factors. Therefore, the only potential program for which she may be eligible is HMP.

HMP requires a determination of group size under the MAGI methodology with consideration of the client's tax status and dependents. BEM 211 (July 2019), p. 1. The household for a tax filer, who is not claimed as a tax dependent includes the

individual, their spouse, and tax dependents. *Id.* Petitioner is married and has one tax dependent. Therefore, Petitioner's MA group size is three. 133% of the FPL for a group size of one is \$28,887.60 as of January 15, 2020. U.S. Department of Health and Human Services Office of the Assistance Secretary for Planning and Evaluation, *2019 Poverty Guidelines* < <https://aspe.hhs.gov/poverty-guidelines>> (accessed July 29, 2020). Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$28,887.60 for a group size of three or \$2,407.30 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/>> (accessed July 29, 2020). AGI is found on IRS Tax Form 1040 at line 7, Form 1040 EZ at line 4, and Form 1040A at line 21. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/adjusted-gross-income-agi/>> (accessed July 29, 2020). 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. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/income-and-household-information/how-to-report/>> (accessed July 29, 2020). In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.* Effective October 1, 2018, all RSDI income is countable for tax-filers and adults not claimed as dependents. BEM 503 (October 2018), p. 30.

Petitioner had gross income of \$1,534.45 for February 2020. No evidence was presented that she paid towards health coverage, child care, or retirement savings with her employer. In addition to the employment income, the household also receives \$800.00 in RSDI benefits for Petitioner's husband. Therefore, the total household MAGI is \$2,334.45. Petitioner's MAGI is less than the income limit of \$2,407.30 per month; therefore, the Department erred in determining that her income was greater than the HMP income limit.

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 did not act in accordance with Department policy when it closed Petitioner's MA benefits.

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. Redetermine Petitioner's eligibility for MA benefits effective April 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/tm



Amanda M. T. Marler
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

Kara Gubancsik
30755 Montpelier Drive
Madison Heights, MI 48071

Petitioner



cc: ME—D. Smith; EQADHShearings
Oakland County AP Specialist