



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: February 3, 2021  
MOAHR Docket No.: 20-006320  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 1, 2020. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family independence Manager.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-25.

### **ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA)?

### **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] 2020, Petitioner applied for MA through the Federally Facilitated Marketplace. (Exhibit A, pp. 5-11)
2. Petitioner reported a household size of one. (Exhibit A, p. 6)
3. Petitioner reported she was not working at that time, she receives Unemployment Compensation Benefits (UCB) of \$362.00, and the payments are biweekly. (Exhibit A, pp. 9-10)
4. Petitioner received UCB of \$362.00 per week. (Exhibit A, p. 4)

5. A report from The Work Number showed Petitioner was actively employed with [REDACTED] and receiving UCB. (Exhibit A, p. 1; FIM Testimony)
6. The Department determined the Petitioner was not eligible for Health Michigan Plan MA because her income is higher than the allowable amount for a group size of one. (Exhibit A, p. 1; FIM Testimony)
7. On September 23, 2020, a Health Care Coverage Determination Notice was issued to Petitioner denying MA showing an annual income of \$39,180.00. (Exhibit A, pp. 12-14)
8. On September 28, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 3-4)
9. On September 30, 2020, a Health Care Coverage Determination Notice was issued to Petitioner denying MA showing an annual income of \$18,756.00. (Exhibit A, pp. 23-25)

### **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.

The Medicaid program comprise several sub-programs or categories. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2020, p. 1.

Petitioner was only potentially eligible for the Healthy Michigan Plan (MA-HMP) program. For example, based on the information reported on the application, Petitioner was not under age 19, aged, blind, disabled, pregnant, or a parent or caretaker relative of a dependent child. (Exhibit A, pp. 6-7)

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, June 1, 2020, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2020, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

The Department counts gross wages as earned income. BEM 501, January 1, 2020, p. 6.

Generally, the Department counts the gross amount of unemployment benefits as unearned income. For MAGI, unemployment benefits are treated as a reasonably predictable change in income and are budgeted for the time period received. BEM 503, September 1, 2020, pp. 37-38.

The 2020 FPL for the 48 contiguous states and the District of Columbia for a group size of one is an annual income of \$12,760.00. 85 FR 3060, pp. 3060-3061. Accordingly, 133% of FPL is \$16,970.80 for a group size of one.

On [REDACTED] 2020, Petitioner applied for MA through the Federally Facilitated Marketplace. (Exhibit A, pp. 5-11) Petitioner reported a household size of one. (Exhibit A, p. 6) Petitioner reported she was not working at that time, she receives UCB of \$362.00, and the payments are biweekly. (Exhibit A, pp. 9-10) Petitioner received UCB of \$362.00 per week. (Exhibit A, p. 4)

A report from The Work Number showed Petitioner was actively employed with [REDACTED] and receiving UCB. (Exhibit A, p. 1; FIM Testimony) Accordingly, it appears that the Department initially budgeted both employment earnings and UCB when they determined that Petitioner was not eligible for Health Michigan Plan MA because her income is higher than the allowable amount for a group size of one. (Exhibit A, p. 1; FIM Testimony) On September 23, 2020, a Health Care Coverage Determination Notice was

issued to Petitioner denying MA, showing an annual income of \$39,180.00. (Exhibit A, pp. 12-14)

However, it appears that the Department continued to process the application and re-determined Petitioner's eligibility budgeting only the UCB income. On September 30, 2020, a Health Care Coverage Determination Notice was issued to Petitioner denying MA showing an annual income of \$18,756.00. (Exhibit A, pp. 23-25)

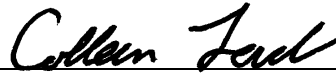
Considering only the UCB, Petitioner's household's countable income was \$362.00 per week. When multiplied by 52 weeks, this results in an annual income of \$18,824.00. This exceeds 133% of FPL for a group size of one, \$16,970.80.

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 denied Petitioner's application for Medical Assistance (MA).

**DECISION AND ORDER**

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

CL/ml



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Colleen Lack  
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**

Richard Latimore  
Wayne (Dist 57) County DHHS – via  
electronic mail

BSC4 – via electronic mail

C. George – via electronic mail

EQAD – via electronic mail

**Petitioner**

[REDACTED] – via first class mail  
[REDACTED]  
[REDACTED]