



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: February 14, 2019  
MAHS Docket No.: 18-012408  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 January 9, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jaqueshia Allen, Eligibility Specialist, and Sara Terreros, Assistance Payments Supervisor. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

**ISSUE**

Did the Department properly follow Department policy when it closed Petitioner's Medicaid (MA) benefits case under the Healthy Michigan Plan (HMP), effective December 1, 2018?

**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 was an ongoing beneficiary of MA benefits from the Department under the HMP.
2. At all times relevant to this matter, Petitioner was the caretaker of her disabled sister, who also had an open benefits case with the Department.

3. On [REDACTED] 2018, Petitioner reported to the Department that her sister was paying Petitioner \$[REDACTED] per month in rent to live in the home together with Petitioner. Exhibit A, p. 2.
4. On November 13, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case was closing effective December 1, 2018 based on the Department's determination that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 5-8.
5. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's November 13, 2018 Health Care Coverage Determination Notice.

### **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 an ongoing beneficiary of MA benefits from the Department under the HMP. On [REDACTED], 2018, Petitioner submitted to the Department, a change report indicating that she started receiving \$[REDACTED] per month in rental income from her sister and dependent. Petitioner informed the Department that it was "in home rental income." In processing the change report, the Department added \$[REDACTED] to Petitioner's previously budgeted monthly income of \$[REDACTED] and determined that the added income rendered Petitioner ineligible for MA benefits.

Petitioner and the Department disagree with how the Department budgeted Petitioner's in-home rental income. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. For HMP purposes, Petitioner has a household size of one. BEM 211 (April 2018), pp. 1-2. 133% of the annual FPL in 2018 for a household with one member is \$16,146.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.20.

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.

The issue at hand is whether, under MAGI methodology, the Department should have budgeted the entire \$[REDACTED] of in-home rental income or some lesser amount. Thankfully, the federal government provides guidance on how MAGI methodology applies to in-home rental income. In that guidance, individuals are advised to “use net rental...income” when calculating income using the MAGI methodology. Additionally, the Department has a policy applicable to in-home rental income as well. BEM 504 (January 2018). That policy states that the Department “counts the gross rent payment minus expenses as earned income from self-employment,” which is another way of saying “net rental income.” BEM 504, pp. 1-2. The policy then goes on to describe that the net rental income can be calculated by reducing the gross rental income by either 60% of the rental payment or by the actual rental expenses if claimed and verified. BEM 504, p. 2.

Thus, under MAGI methodology, Petitioner’s \$[REDACTED] in in-home rental income should not have been budgeted in its entirety. Rather, only net rental income should have been budgeted. Department policy defines how to calculate net rental income. That policy was not followed. Petitioner’s \$[REDACTED] in monthly net rental income should have been discounted by the greater of either 60% of the rental amount or her claimed and verified rental expenses, resulting in a maximum budget-able rental income of \$[REDACTED]. Had the Department properly budgeted only the net rental income of \$[REDACTED] Petitioner’s income would not have exceeded the income threshold for eligibility under the HMP. Because the Department’s improper budgeting of Petitioner’s rental income resulted in an improper closure of Petitioner’s MA benefits case under the HMP, the Department’s decision must be reversed.

### **DECISION AND ORDER**

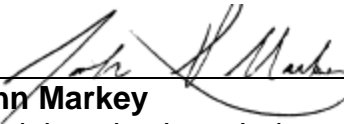
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner’s MA benefit case, effective December 1, 2018.

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. Reinstate Petitioner's MA eligibility as of December 1, 2018, ongoing;
2. Notify Petitioner of its decision in writing.

JM/cg

  
**John Markey**  
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Kent-1-Hearings  
D. Smith  
EQAD  
BSC3- Hearing Decisions  
MAHS

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

