



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: October 31, 2019  
MOAHR Docket No.: 19-009927  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 October 28, 2019, from Detroit, Michigan. Petitioner represented himself. [REDACTED] served as the Arabic Interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

**ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA) benefits effective October 1, 2019?

**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 recipient of MA benefits.
2. On August 6, 2019, the Department sent Petitioner a Wage Match Notice.
3. On August 22, 2019, Petitioner returned the completed Wage Match Notice which identified his earnings from January 4, 2019 through August 16, 2019.
4. On August 27, 2019, and August 29, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that he was ineligible for MA benefits effective October 1, 2019.

5. On [REDACTED] 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

### **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 submitted a completed Wage Match Notice on August 22, 2019. The Department sent Petitioner a Health Care Coverage Determination Notice on August 27, 2019, and August 29, 2019, informing him that he was ineligible for MA benefits effective October 1, 2019.

The Department concluded that Petitioner and his wife were not eligible for Healthy Michigan Plan (HMP) because their household income exceeded the applicable income limit for their group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if their household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a five percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat five percent disregard from the income. BEM 500, p. 5. The five percent disregard is applied to the highest income threshold. BEM 500, p. 5. The five percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes jointly with his wife; and they claimed their adult son. Therefore, for HMP purposes, they each have a household size of three. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2019 for a household with three members is \$29,435.40. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of three is \$2,452.95. Therefore, to be income eligible for HMP, Petitioner's and

Petitioner's wife's income cannot exceed \$29,435.40 annually or \$2,452.95 monthly. 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. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, 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, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective January 1, 2014, when determining eligibility for new applicants of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

[http://www.michigan.gov/documents/mdch/SPA\\_13\\_0110\\_MM3\\_MAGI-Based\\_Income\\_Meth\\_446554\\_7.pdf](http://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf).

The Department testified that when calculating Petitioner's and Petitioner's wife's household income, they included Petitioner's, Petitioner's wife's and Petitioner's child's income. In response to the Wage Match sent to Petitioner, it received a chart of Petitioner's income from January 4, 2019 through August 16, 2019. The Department testified that it used the earnings in the amount of \$420.00 on July 26, 2019; \$490.88 on August 2, 2019; \$490.88 on August 9, 2019; and \$490.88 on August 16, 2019. When added together, Petitioner's total income was \$1,892.64. The Department indicated that it calculated Petitioner's total monthly income as \$2,048.00; however, the Department failed to explain the calculation at the hearing.

The Department testified it Petitioner's wife's Supplemental Security Income (SSI) benefit amount is \$771.00 per month. When Petitioner's wife's income is added to his monthly income, their income is \$2,663.64, which is a household yearly income of \$31,963.68. The Department testified that because Petitioner's wife receives SSI, she is receiving SSI-related Medicaid on a separate case. Unlike Petitioner, his wife is automatically eligible for SSI-related MA benefits as long as she is a Michigan resident and cooperates with third-party resource liability requirements. BEM 150 (April 2017), p. 1. Because Petitioner does not receive SSI, the household income is used in determining his eligibility for MA benefits.

The Department stated it also used Petitioner's daughter's earnings which the Department indicated were \$826.74 per month. Petitioner confirmed this amount but testified that his daughter earns less when she is in school. Petitioner did not provide any pay stubs relating to his daughter's income at the hearing. The Department stated the combined household income exceeded the income limit for a group size of three under the HMP program.

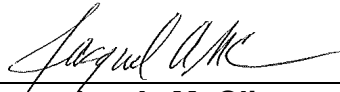
Generally, MAGI-based income includes the sum of the MAGI-based income of every individual in the individual's household. 42 CFR 435.603(d)(1). However, the MAGI-based income of an individual who is included in the household of their natural parent, and is not expected to be required to file a tax return for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax return. 42 CFR 435.603(d)(2)(i). The tax filing threshold for 2018 was \$12,000. See: <https://www.irs.gov/pub/irs-pdf/p501.pdf>. Petitioner's daughter's income does not exceed the last tax filing threshold and thus should not have been counted in the household income.

The Department erred when it included Petitioner's daughter's income in the calculation of the household income. However, because Petitioner's and Petitioner's wife's incomes, when combined, exceed the maximum allowable income for a group size of three, it is found that the Department properly determined that Petitioner was ineligible for MA benefits under the HMP program.

### **DECISION AND ORDER**

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

JAM/jaf

  
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**Jacquelyn A. McClinton**  
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** (via electronic mail)

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

**Petitioner** (via first class mail)

[REDACTED]  
[REDACTED]  
[REDACTED]