



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: December 19, 2019  
MOAHR Docket No.: 19-011890  
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 December 11, 2019, from Detroit, Michigan. Petitioner represented himself. [REDACTED], Petitioner's wife, also appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

**ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA) benefits for August 2019 and September 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. On October 16, 2019, Petitioner submitted an application for MA benefits seeking retroactive MA for his wife for the prior three months.
2. At the time of the application, Petitioner had been withdrawing \$1,750.00 monthly from his investment account.
3. In August 2019, Petitioner's wife earned \$1,211.80 and earned \$632.70 in September 2019.
4. Petitioner's wife has not worked since August 24, 2019.

5. On October 28, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that his wife was not eligible for MA coverage for August 2019 and September 2019 due to excess income.
6. 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 requested a hearing disputing the Department's determination that his wife was ineligible for MA benefits for August 2019 and September 2019. The Department concluded that Petitioner's wife was not eligible for HMP because the household income exceeded the applicable income limit for a group size of two. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), 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. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner has a household size of two.

133% of the annual FPL in 2019 for a household with two members is \$24,490.00. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual income cannot exceed \$24,490.00 annually or \$1,874.19 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, tax-exempt 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, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2019 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department testified that it used Petitioner’s monthly investment withdrawal of \$1,750.00 and his wife’s final three paystubs, which were: \$626.43 paid on August 9, 2019; \$585.37 paid on August 23, 2019; and \$632.70 paid on September 6, 2019. Based upon this information, the Department determined the household pay for August 2019 as \$2,961.80 and the household income from September 2019 as \$2,382.70. Petitioner’s wife testified that her last actual day of work was August 24, 2019, due to suffering a stroke on August 25, 2019.

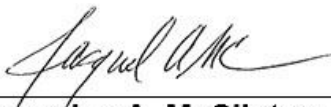
The Department testified that because Petitioner’s wife’s last paycheck was received in September 2019, it was required to budget the pay in that month. Under Department policy, income means a benefit or payment ***received*** by an individual which is measured in money. [Emphasis added]. As such, Petitioner’s household income exceeded the income limit for the months of August and September 2019; and therefore, his wife was ineligible for MA benefits for these months.

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 determined that Petitioner’s wife was ineligible for retroactive MA coverage for August 2019 and September 2019.

### **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]