



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 14, 2019
MAHS Docket No.: 19-000328
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 7, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Abby Sutter, Assistance Payment Supervisor, and Ebonie Fairfax, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2018 application for Medication (MA) benefits?

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 lives with her three minor children and declares them as her dependents on her federal tax return.
2. Petitioner is not disabled, blind, over age 65, under age 19, or pregnant.
3. On [REDACTED] 2018, Petitioner applied for MA for herself but not her three children.
4. With her application, Petitioner submitted her federal income tax forms, which included her individual tax return, form 1040 (along with the attached Schedules C and E), showing that she had \$25,502 in business income and \$12,022 in rental

real estate and S corporation income (Exhibit A, pp. 7-10), and the federal tax return for her S corporation, Deco, Inc. showing gross receipts of \$56,446 and ordinary business income of \$8,870 (Exhibit A, pp. 11-23)

5. On November 15, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was not eligible for any MA program. The notice indicated that Petitioner's countable income of \$87,936 exceeded the income limit for her group size for eligibility under the Healthy Michigan Plan (HMP) or the Parent and Caretaker program (Exhibit A, pp. 24-26).
6. On [REDACTED], 2019, the Department received Petitioner's request for hearing disputing the Department's action, alleging her annual income was \$39,756 (Exhibit A, pp. 2-3).

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 Department denied Petitioner's [REDACTED] 2018 MA application finding that she was not income-eligible for MA under the HMP or PCR program. At the hearing, Petitioner confirmed that she was not blind, disabled, over age 65, under age 19, pregnant, or a Medicare recipient. She further testified that, because the children had medical insurance coverage through their stepmother, she did not apply for MA for them, only for herself. Petitioner was potentially eligible for MAGI (Modified Adjusted Gross Income)-related MA under either HMP or PCR program.

An individual is income-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 is income-eligible for the Low Income Family (LIF)/PCR program if her household's annual income is below 54% of the FPL applicable to the individual's group size. BEM 110 (April 2018), p. 1. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. Petitioner, who is a tax

filer and claims her three children as her tax dependents on her federal tax return, has a group size of four for purposes of determining eligibility for MAGI-related MA policies. BEM 211 (January 2016), pp. 1-2. For a four-person group, 133% of the FPL for HMP eligibility is \$33,383 and 54% of the FPL for PCR eligibility is \$13,554. <https://www.healthcare.gov/glossary/federal-poverty-level-FPL/>. A 5% disregard, which may be applied to make someone MA eligible, raises the applicable FPL limit by 5%. BEM 500, p. 5. This would raise the income limit for HMP eligibility to \$34,638, and for PCR eligibility to \$14,809.

To determine financial eligibility for MAGI-related MA programs, 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. To verify income for MA purposes, an individual may submit a 1040 federal income tax return, with a schedule C, profit or loss from business, including all attachments. BEM 502 (July 2017), p. 7.

In determining that Petitioner's annual income totaled \$87,936 (Exhibit A, p. 25), the Department testified that it added together (i) Petitioner's self-employment income of \$25,502, as showing on her Schedule C (Exhibit A, p. 8); (ii) her rental income of \$6000, as showing on her Schedule E, Supplemental Income and Loss form (Exhibit A, p. 9); and her income for her S corporation, Deco, Inc., of \$56,446 as showing on the U.S. Income Tax Return for an S Corporation (Exhibit A, pp. 11-15). Petitioner contended that the Department was double-counting her income, explaining that she was the sole shareholder and employee of Deco, Inc., her graphic design company, and that it paid her \$25,502 in wages and \$6,000 in rental income for use of space in her home. She argued that the S Corp's income was separate from her own.

MAGI is determined by taking a client's adjusted gross income (AGI) and adding to it 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. Here, line 37 of Petitioner's 1040 shows that she had AGI of \$35,722 (the sum of Schedule C business income of \$25,502 and real estate and S corporation dividends of \$12,022, less \$1,802 for the deductible portion of self-employment tax). Because there was no evidence that Petitioner had any tax-exempt foreign income, tax-exempt Social Security benefits, or tax-exempt interest, Petitioner's AGI is also her MAGI. Therefore, the Department improperly concluded that Petitioner had \$87,936 in annual income. However, because Petitioner's \$35,722 in MAGI income exceeds the limit for HMP eligibility, even with the added 5% disregard, the Department acted in accordance with Department policy when it concluded that Petitioner was ineligible for MA under HMP or PCR, the two MAGI-related MA policies potentially available to her.

Because Petitioner is the parent of minor children, after determining that Petitioner was ineligible for MA under a MAGI-related MA category because of excess income, the Department should also have processed Petitioner's eligibility for MA under a group 2

caretaker/relative (G2C) MA program if she satisfied the other eligibility criteria. BEM 137 (April 2018), p. 1; BEM 135 (October 2015), p. 1; BEM 105 (April 2017), pp. 2, 3-4. The Department testified that Petitioner was ineligible for G2C coverage because she had not applied for MA for any of her minor children.

To be eligible for G2C coverage, an individual must live with and be the parent of a "dependent child," as that term is defined in policy. BEM 135, p. 1. A dependent child is one who, in part, is either a Family Independence Program (FIP) recipient; a Supplement Security Insurance (SSI) recipient, a Medicaid recipient; and active Medicaid deductible; a Medicaid beneficiary; a MICHild beneficiary; or a Medicaid applicant. BEM 135, p. 3. Because Petitioner did not apply for MA for her children and the children did not meet any of the other criteria to be classified as dependent children under BEM 135 for purposes of G2C eligibility, the Department properly concluded that Petitioner was not eligible for G2C coverage.

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 [REDACTED] 2018 MA application.

DECISION AND ORDER

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



AE/tm

Alice C. Elkin
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

DHHS

Kimberly Kornoelje
121 Franklin SE
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49507

Petitioner

[REDACTED]
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cc: MA- Deanna Smith; EQADHShearings
AP Specialist (3), Kent County