



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 28, 2019  
MAHS Docket No.: 19-001149  
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 March 20, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Eric Murphy, Eligibility Specialist. During the hearing, a 56-page packet of documents was offered and admitted as Exhibit A, pp. 1-56.

**ISSUE**

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) benefits?

Did the Department properly close Petitioner's Medicaid (MA) benefits case under the Health Michigan Plan (HMP), effective March 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 full-coverage MA benefits under the HMP.
2. On December 12, 2018, Petitioner was laid off from his job for lack of work. He subsequently filed for unemployment and began receiving \$[REDACTED] per week. He was authorized to receive unemployment benefits for a maximum of 20 weeks.

3. On [REDACTED] 2019, Petitioner submitted to the Department an application for SER benefits. Exhibit A, pp. 7-9; 14-28.
4. On January 14, 2019, the Department issued to Petitioner two Verification Checklist (VCL) documents requesting information necessary to determine Petitioner's eligibility for SER benefits. One of the documents required Petitioner to return the required proofs by January 22, 2019. The other required Petitioner to return the required proofs by January 24, 2019. Exhibit A, pp. 10-13.
5. On January 17, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was no longer eligible for MA benefits from the Department, effective March 1, 2019, due to his income allegedly exceeding the limit for program eligibility. The Department made that determination based on its conclusion that Petitioner's annual income was \$[REDACTED]. Exhibit A, pp. 48-51.
6. On January 18, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that his SER application was denied because he "failed to verify or allow the department to verify information necessary to determine eligibility for this program." Exhibit A, pp. 39-42.
7. On [REDACTED], 2019, Petitioner submitted to the Department documents that were responsive to the two January 14, 2019, VCLs. Exhibit A, pp. 29-38.
8. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the denial of his SER application and the closure of his MA benefits case.

### **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).

In this case, Petitioner was an ongoing recipient of full-coverage MA benefits under the HMP when he was laid off from his job in December 2018. Shortly after being laid off, Petitioner was approved to receive unemployment benefits of \$[REDACTED] per week for a maximum of 20 weeks. A few weeks later, Petitioner submitted to the Department an application for SER benefits to assist in the payment of utilities, taxes, and repairs.

In response, the Department sent out two VCL documents requiring Petitioner to return proofs concerning factors necessary to determine Petitioner's eligibility for SER benefits. The various proofs were due by either January 22, 2019, or January 24, 2019. On January 16, 2019, the Department issued a Health Care Coverage Determination Notice informing Petitioner that his MA benefits case was closing, effective March 1,

2019, because the Department determined that Petitioner's income was too high for program eligibility. On January 18, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that his SER application was denied because he "failed to verify or allow the department to verify information necessary to determine eligibility for this program." On [REDACTED], 2019, Petitioner timely submitted responses to the Department's VCL documents. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the denial of his SER application and the closure of his MA benefits case.

### **SER APPLICATION DENIAL**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Petitioner's SER application was denied because Petitioner allegedly failed to verify or allow the Department to verify information necessary to determine Petitioner's eligibility.

A client who applies for SER benefits must be informed of all verifications that are required and where to return the verifications. ERM 103 (October 2018), p. 6. The Department is required to use a VCL to request the information, and the VCL must notify the client of the due date for returning the verifications. ERM 103, p. 6. The client is required to make a reasonable effort to obtain the required verifications. ERM 103, p. 6.

In this case, Petitioner applied for SER benefits, and the Department appropriately issued to Petitioner two VCL documents requiring Petitioner to provide verifications related to a number of eligibility related factors. Petitioner was told what to provide and the deadline for doing so. However, prior to the deadline, the Department issued a State Emergency Relief Decision Notice informing Petitioner that his application was denied for failing to provide required verifications. Clearly, this action was not taken in compliance with Department policy and law. During the hearing, the Department representative acknowledged that the denial was premature and that the Department's decision was made prematurely. Accordingly, the Department's denial of Petitioner's SER application is reversed. The Department must reprocess the application pursuant to Department policy and law.

### **CLOSURE OF MA BENEFITS CASE, EFFECTIVE MARCH 1, 2019**

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.

When Petitioner applied for SER benefits, he was an active recipient of full-coverage MA benefits from the Department under the HMP. On the SER application, Petitioner indicated that he was receiving \$████ per week in unemployment benefits. The Department annualized Petitioner's weekly unemployment earnings and thereafter determined that Petitioner would have an annual income of \$██████, which is above the annual income threshold for HMP eligibility. The Department then issued to Petitioner a notice informing him that his MA benefits case was closing, effective March 1, 2019. Petitioner objected and stated that his annual income was nowhere near the amount determined by the Department.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is eligible for HMP if his 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 filed taxes and did not claim any dependents. Therefore, for HMP purposes, he has a household size of one. BEM 211 (April 2018), pp. 1-2.

133% of the annual FPL in 2019 for a household with one member is \$16,611.70. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70. 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods..., a State may elect in its State plan to base financial eligibility either on current monthly household income... or income based on projected annual household income...for the remainder of the current calendar year."

Effective January 1, 2014, when determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the remaining months of the current calendar year. The State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or 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 determined that Petitioner had a yearly income of \$██████ based on Petitioner's unemployment compensation he received along with some other unidentified income. The Department annualized Petitioner's income over the course of an entire year. As a result, the Department determined Petitioner exceeded the income limit for a group size of one and closed his MA benefit case.

The income Petitioner was receiving was a result of a time-limited unemployment claim that could only provide, during 2019, a maximum of \$7,240.<sup>1</sup> At the hearing, Petitioner reiterated that the unemployment compensation had a definite end date, and the Department representative acknowledged that it was improperly annualized. Based on the evidence presented, Petitioner's annual income should have been calculated to be substantially below the HMP eligibility threshold.

The Department erred when they annualized Petitioner's income over the entire year. Petitioner gave credible testimony that his compensation was limited and expected to end well before the end of 2019. It was reasonably predictable that Petitioner would experience a decrease in income before the end of the year. Therefore, the Department failed to follow policy when they annualized Petitioner's earned income over the entire year. As such, the Department failed to follow policy when it closed Petitioner's MA benefit case

### **DECISION AND ORDER**

Accordingly, the Department's decisions are **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 and reprocess Petitioner's application for SER benefits;
2. If the Department needs further verification of Petitioner's eligibility for the requested SER benefits, provide to Petitioner clear requests for verification and allow Petitioner the opportunity to respond pursuant to Department policy;

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<sup>1</sup> This figure was reached by multiplying the weekly benefit amount of \$██████ by the maximum number of weeks Petitioner could receive unemployment, 20.

3. If Petitioner is entitled to SER benefits, issue benefits he is entitled to receive;
4. Reinstate Petitioner's full-coverage MA eligibility under the HMP, effective March 1, 2019;
5. If the Department needs further verification of Petitioner's income eligibility, provide to Petitioner clear requests for verification and allow Petitioner the opportunity to respond pursuant to Department policy; and
6. Notify Petitioner of its actions in writing.

JM/cg

  
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**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-Wayne-41-Hearings  
D. Smith  
EQAD  
T. Bair  
E. Holzhausen  
BSC4- Hearing Decisions  
MAHS

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

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