



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 13, 2019
MAHS Docket No.: 19-001152
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 11, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program eligibility?

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 [REDACTED], 2018, the Department received Petitioner's application for MA benefits.
2. On October 9, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner approving her for MA benefits with a deductible of \$[REDACTED] effective October 1, 2018, in the Group 2-Parent/Caregiver (G2C) category.
3. On October 12, 2018, the Department received verification of Petitioner's Husband's (Husband) employment showing that he made \$[REDACTED] per pay week.

4. At a later date, the Department also received verification of Petitioner's employment showing that she made \$ [REDACTED] for the pay date ending October 31, 2018, and was paid on monthly basis.
5. On December 17, 2018, the Department received a new application for MA benefits for Petitioner indicating that she received \$ [REDACTED] in wages, that her husband had left his previous employer, and began self-employment but had no income at that time.
6. At some point, the Department also received verification of Husband's resignation from his employment, effective November 30, 2018, as well as a printout of Petitioner's pay history by month from January 2018 through January 2019 and pay stubs for Petitioner for pay dates December 31, 2018, in the amount of \$ [REDACTED] and January 31, 2019, in the amount of \$ [REDACTED]
7. On January 14, 2019, the Department issued a HCCDN to Petitioner informing her that she was eligible for MA benefits with a deductible of \$ [REDACTED] effective January 1, 2019.
8. On January 17, 2019, the Department received Petitioner's request for hearing disputing the Department's consideration of household income and determination of MA with a deductible after her husband's resignation.

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 disputes the Department's consideration of household income and placement in an MA deductible program. Petitioner was originally a recipient of the MA G2C program with a deductible of \$ [REDACTED] effective October 1, 2018. According to the Department, due to the change in household income, Petitioner's eligibility for MA benefits changed to the MA G2C program with a deductible of \$ [REDACTED]

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program comprises several sub-programs or categories. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Petitioner indicated on her application that she had a disability. At the hearing, she testified that she has Multiple Sclerosis. Based upon the HCCDN, it is unclear whether the Department considered or determined Petitioner's disability status for purposes of MA benefits. She is also responsible for the care of her minor children. As a result, Petitioner's circumstances potentially qualify her for Medicaid under numerous MA categories.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As a caretaker, Petitioner is potentially eligible for MA through Low-Income-Family (LIF). Adults with a dependent child and income under 54% of the Federal Poverty Level will be considered LIF eligible. BEM 110 (April 2018), p. 1. LIF is a MAGI MA category. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, Petitioner's MA group size is four as she is married and has two dependent children. The 2018 FPL, effective through January 11, 2019, for a four-person household is \$25,100.00. The corresponding LIF income limit is \$13,554.00.

To determine financial eligibility under LIF, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. 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." Michigan has decided to determine the bases of financial eligibility on current monthly household income. This figure is multiplied by the number of paychecks the client expects during the year to estimate income for the entire year. However, when calculating MAGI in situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent

trends, possible changes in the workplace, and similar information. *Id.* See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

At the time of the December 2018 Application, Husband had no income; and Petitioner had income of \$ [REDACTED] for December 2018 and \$ [REDACTED] for November 2018. However, after review of Petitioner's pay history from all of 2018, Petitioner's wages vary considerably from as low as \$ [REDACTED] in August 2018 to as high as \$ [REDACTED] in December 2018. Therefore, use of Petitioner's December 2018 wage, and multiplying it by 12 is inappropriate. Since the Department had Petitioner's complete wage history for 2018, the Department could have averaged her monthly income or used her gross income for the year. Petitioner's average monthly income was \$ [REDACTED] per month and her total income for the year was \$ [REDACTED]. Therefore, Petitioner's annual household income significantly exceeds the LIF income limit of \$13,554.00.

As a potentially disabled individual, Petitioner is potentially eligible to receive Medicaid through Ad-Care. Again, it is unclear whether the Department made a determination of Petitioner's disability status. BEM 163 outlines the procedures for determining Ad-Care eligibility. Ad-Care is a Supplemental Security Income (SSI)-Related MA category. BEM 163 (July 2017), p. 1. In SSI-Related MA cases, the group consists of the client and their spouse. BEM 211, p. 8. However, to qualify for Ad-Care, the client cannot have net income which exceeds 100% of the FPL. BEM 163, pp. 1-2. The net income limit is established by subtracting \$20.00 from the net income limit listed in RFT 242 at \$1,391.67 for a group size of two (Petitioner and her spouse) effective April 1, 2018. BEM 163, p. 2; RFT 242 (April 2018), p. 1. In other words, the net income limit is \$1,371.67. Countable income is calculated by adding the amounts of income actually received/available within the past month. BEM 530 (July 2017), p. 2. Only self-employment income may be averaged in SSI-Related MA cases. BEM 530, p. 2. Since Husband had no income and Petitioner had income of \$ [REDACTED] in December 2018, the gross income is \$ [REDACTED] for the group. Pursuant to policy, Petitioner is eligible for the \$20.00 disregard, blind and impairment related work expenses, and guardianship/conservator expenses. BEM 541 (January 2018). There was no evidence of blind or impairment related work expenses or guardianship/conservatorship expenses. Therefore, the \$20.00 general exclusion is applied to achieve Petitioner's net income. BEM 541 (November 2018), p. 3. Therefore, Petitioner's net income is \$ [REDACTED] which is significantly greater than the net income limit and the federal poverty limit. Petitioner is not eligible for the Ad-Care category.

Many individuals receive MA through Healthy Michigan Plan (HMP). HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the FPL under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1; MPM, Healthy Michigan Plan, § 1.1. As discussed above, the FPL for a group size of four is \$25,100 and 133% of that is \$33,383.00. Petitioner is between the ages of 19 to 64, is not

enrolled or qualified for Medicare, and does not qualify for MA under any non-deductible category. Furthermore, based upon the above calculations of Petitioner's income pursuant to MAGI rules, Petitioner has income of \$ [REDACTED] per month or \$ [REDACTED] for the year. The household income is well within the HMP income limit. Therefore, the Department did not properly determine that Petitioner was ineligible for HMP.

Since the Department failed to consider Petitioner's income which fluctuates significantly properly, the Department did not properly calculate the household MAGI income, and the Department has not met its burden of proof that it properly determined Petitioner's MA eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's Medical Assistance (MA) Program eligibility.

DECISION AND ORDER

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. Redetermine Petitioner's eligibility for MA benefits effective January 1, 2019;
2. If Petitioner is eligible for MA benefits greater than previously received, issue supplements to Petitioner or on Petitioner's behalf for benefit not previously provided; and,
3. Notify Petitioner in writing of her MA eligibility effective January 1, 2019.

AMTM/jaf



Amanda M. T. Marler
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

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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