



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: May 22, 2019
MOAHR Docket No.: 19-001159
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 May 20, 2019, from Detroit, Michigan. Petitioner appeared. Also appearing on behalf of Petitioner was [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case under the Healthy 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 under the HMP. Petitioner's benefits were certified through January 31, 2019. In order to certify a new benefit period, the Department initiated the redetermination process.
2. Petitioner provided paystubs covering his wages from employment for the months of December 2018 and January 2019. Each paystub covered earnings over a two-week period. On December 12, 2018, Petitioner received gross income of \$[REDACTED]. On December 26, 2018, Petitioner received gross income of \$[REDACTED]. On January 9,

2019, Petitioner received gross income of \$[REDACTED]. On January 23, 2019, Petitioner received gross income of \$[REDACTED]. Exhibit A, pp. 10-11.

3. On February 4, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was eligible for HMP through the end of February 2019. Effective March 1, 2019, Petitioner's MA case under the HMP was closing due to the Department's finding that Petitioner's alleged annual income of \$[REDACTED] exceeded the limit for program eligibility. Exhibit A, pp. 6-9.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 was an ongoing recipient of MA benefits under the full-coverage HMP. When his case was due for redetermination, Petitioner provided two months' worth of paystubs covering Petitioner's earnings in December 2018 and January 2019. The Department used the paystubs from January 2019, which showed atypically inflated income for Petitioner, to calculate Petitioner's annual income. After determining that Petitioner's annual income was \$[REDACTED] the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was closing, effective March 1, 2019, because the Department determined that Petitioner's income exceeded the limit for program eligibility for a group of one.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (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 (January 2019), p. 1.

Petitioner is under age 64, not disabled, and not enrolled in Medicare. Thus, he is potentially eligible for MA under the HMP if the household's income does not exceed

133% of the FPL applicable to the individual's group size. In this case, Petitioner does not have any other group members. Thus, the evidence suggests that Petitioner's household size for MAGI purposes is one. 42 CFR 435.603(f).

133% of the annual FPL for a household with one member is \$16,611.70. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$16,611.70. This figure breaks down a monthly income threshold of \$1,384.31.¹ To determine financial eligibility under HMP, 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), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf. However, in determining current monthly income, the Department must account for reasonably predictable decreases in income. *Id.*

Petitioner submitted four paystubs to the Department showing that he had income of \$[REDACTED] in January 2019 and \$[REDACTED] in December 2018. In addition to the paystubs, the Department had information in its system showing that Petitioner never earned more than \$[REDACTED] during any quarter while working at the job he was working at in the relevant time period. Thus, based on the information the Department had at the time it made the determination, the income Petitioner earned from his job was not in excess of the limit. In any given quarter, Petitioner's annualized income never exceeded \$[REDACTED]. In the month of January 2019, Petitioner's income was an outlier, and the Department had sufficient information to make that determination, as evidenced by Petitioner's statements, the paystubs, and the Department's records showing Petitioner's earning history. While his current monthly income, in a vacuum, may have been slightly over the limit for January 2019, the Department failed to account for the reasonably predictable decrease in income that inevitably placed Petitioner below the threshold. Because the evidence on the record does not support a finding that Petitioner is income ineligible for MA benefits under the HMP, the Department erred in closing Petitioner's MA benefits case under the HMP on the basis of excess income.

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 did not act in accordance with Department policy when it closed Petitioner's MA benefits case under the HMP, effective March 1, 2019.

DECISION AND ORDER


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

¹ \$[REDACTED] divided by twelve.

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 Petitioner's MA benefits case under the HMP, effective March 1, 2019, and provide all benefits to which Petitioner is entitled to from that date;
2. Redetermine Petitioner's MA eligibility going forward;
3. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, seek to obtain verifications pursuant to Department policy;
4. Notify Petitioner in writing of its decisions.

JM/cg



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 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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS- Wayne-19-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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