



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: March 13, 2019  
MAHS Docket Nos.: 19-000469 and  
19-001175  
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 11, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

**ISSUE**

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly deductible?

**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 MA under the Healthy Michigan Program (HMP).
2. Petitioner lives in Wayne County.
3. On November 5, 2018, Petitioner submitted a redetermination concerning her ongoing eligibility for MA.
4. In her redetermination, Petitioner indicated she lived with her three minor children and her mother and did not intend to file taxes.

5. Petitioner is employed and received the following pay during the redetermination month: [REDACTED] paid on November 2, 2018 and [REDACTED] paid on November 16, 2018.
6. On January 25, 2019, the Department notified Petitioner that she was eligible for MA for December 2018 ongoing with a [REDACTED] monthly deductible.

### **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.

Petitioner submitted two hearing requests, one on January 15, 2019 addressed under the Michigan Administrative Hearing System (MAHS) docket no. 19-000469 and another on February 5, 2019 addressed under MAHS docket no. 19-001175. The hearing on both matters was consolidated. At the hearing, Petitioner acknowledged that the issue raised in her January 15, 2019 hearing request, the denial of her MA, had been resolved by the Department. Consequently, the hearing request under docket no. 19-000469 is dismissed. The hearing proceeded to address Petitioner hearing request under MAHS docket no. 19-000469 concerning the Department's finding that she was eligible for MA subject to a monthly [REDACTED] monthly deductible.

The Department closed Petitioner's MA case under the HMP program and found her eligible for MA subject to a monthly deductible. At the hearing, Petitioner confirmed that she was not blind, disabled, over age 65, under age 19, pregnant, or a Medicare recipient and that she was the parent of minor children. Therefore, Petitioner was potentially eligible for MA under either HMP or, because she was the parent of minor children, a group 2 caretaker/relative (G2C) MA program if she had excess income for HMP eligibility. BEM 137 (April 2018), p. 1; BEM 135 (October 2015), p. 1; BEM 105 (April 2017), p. 2.

HMP is a Modified Adjusted Gross Income (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 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.

In this case, the Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her group size. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. 42 CFR 435.603(f)(1). If the individual does not file taxes, an individual's group consists of the individual and, if living with the individual, her spouse and children up to age 21, if full-time students. 42 CFR 435.603(f)(3).

In this case, the Department testified, and Petitioner confirmed, that in her redetermination, Petitioner reported that she lived with her three minor children and her mother and she did not plan to file taxes. Thus, at the time the redetermination was submitted, the information available to the Department showed that Petitioner's household had, for MAGI-related MA purposes, four members. For a four-person group, the income limit for HMP eligibility in 2018 was \$33,383. <https://www.federalregister.gov/documents/2018/01/18/2018-00814/annual-update-of-the-hhs-poverty-guidelines>. Therefore, to be income-eligible for HMP, Petitioner's annual income cannot exceed \$33,383. 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.

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), pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 4. In order to determine earned 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 the year to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>

Department policy provides that recipients of MA under a MAGI-related program undergo a passive annual renewal to determine ongoing eligibility, which requires the

Department to rely on information available on its system before requesting information from a client. BAM 210 (April 2019), p. 1. In this case, the Department relied on Petitioner's employment income as showing on the Work Number, a Department-accessible database in which employers voluntarily report employment information, including income. The Department testified that Petitioner was paid biweekly and in determining her monthly income it relied on Petitioner's paystubs showing her receipt of [REDACTED] on November 2, [REDACTED] and \$ [REDACTED] on November 16, [REDACTED]. The average of these two paychecks is [REDACTED]. This average reduced by the average 401(k) biweekly contribution of [REDACTED] results in AGI of [REDACTED]. This AGI multiplied by 26, the number of biweekly paychecks an individual receives in a year, results in annual income of [REDACTED]. This exceeds the HMP income limit for Petitioner's four-person group. Thus, the Department properly concluded that Petitioner was ineligible for HMP based on the information it had available at the time of redetermination.

Because Petitioner had minor children in the household, the Department testified that it concluded that, although Petitioner was not eligible for HMP, she was eligible for G2C MA coverage with a monthly \$1,147 deductible. G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (April 2017), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income, calculated in accordance with the applicable Group 2 MA policy, exceeds the applicable Group 2 MA protected income level (PIL). The PIL is based on the county in which the client resides and the client's fiscal MA group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1. Petitioner, who is married but according to the redetermination was not living with her husband at the time, was the single member of her MA fiscal group for G2C purposes. BEM 211 (January 2016), pp. 5-6, 8. The PIL for a single-member fiscal group residing in [REDACTED] County is \$375. RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2.

Although the Department did not provide a budget showing the calculation of the deductible, based on the Department's use of Petitioner's receipt of gross monthly income of [REDACTED] (which is less than the total of her November 2, [REDACTED] and November 16, [REDACTED] pay) and Petitioner having three dependents in the household, Petitioner's fiscal group's net income for G2C purposes was [REDACTED]. See BEM 536 (November 2018), pp. 1-7 (for calculating net income for Group 2 MA programs) and BEM 530 (July 2017), pp. 3-4 (for prospecting income for Group 2 MA programs). Because Petitioner's net income of [REDACTED] exceeds the applicable \$375 PIL by [REDACTED], the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA coverage subject to a monthly [REDACTED] deductible based on the information available to it at the time.

At the hearing, Petitioner testified that her husband had moved back into her home. She was advised to report this information, which may affect the MA program she is eligible under, to the Department.

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 under MAHS docket no. 19-1175 that the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA subject to a monthly [REDACTED] deductible based on the information available to it at the time of redetermination.

**DECISION AND ORDER**

Because the Department resolved the issues raised in Petitioner's January 15, 2019 hearing request, the hearing under MAHS docket no. 18-000469 is **DISMISSED**.

The Department's MA decision in MAHS docket no. 19-001175 is **AFFIRMED**.



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**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**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:**

[REDACTED]  
[REDACTED]