



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
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MI [REDACTED]

Date Mailed: March 25, 2019  
MAHS Docket No.: 19-001433  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 was present with her mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Myrna White, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner was not eligible for Medical Assistance (MA) benefit under the Health Michigan Plan (HMP) program?

**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 MA recipient under the HMP program.
2. In June 2018, Petitioner's husband obtained new employment.
3. On August 13, 2018, the Medical Review Team (MRT) determined Petitioner was not disabled.
4. On August 13, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing Petitioner that she was not eligible for MA benefits, effective September 1, 2018, ongoing (Exhibit D).

5. On August 24, 2018, Petitioner submitted a request for hearing. Petitioner's MA benefits were reinstated pending the outcome of the hearing.
6. On September 26, 2018, a hearing was conducted with the Michigan Administrative Hearing System (MAHS).
7. On January 7, 2019, a Hearing Decision was issued by MAHS affirming the Department's determination that Petitioner was not disabled (Exhibit B).
8. On January 11, 2019, the Department sent Petitioner a Benefit Notice informing her that her MA benefit case was closing, effective January 31, 2019, ongoing, as a result of the January 7, 2019, Hearing Decision (Exhibit A).
9. On February 4, 2019, Petitioner submitted a request for hearing.

### **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 MA recipient under the HMP program. In June 2018, Petitioner's husband obtained employment. On July 5, 2018, Petitioner submitted verification of her husband's income/employment. The Department testified that it determined Petitioner was no longer eligible for MA benefits under the HMP program, as she exceeded the income limit for her group size. The Department testified that it reviewed Petitioner's eligibility under other MA programs. The Department stated that Petitioner had alleged a disability. However, the MRT issued a decision on August 13, 2018, and determined Petitioner was not disabled. As such, Petitioner did not qualify for any Supplemental Security Income (SSI)-related MA programs. BEM 150 and BEM 155 through 174. Petitioner did not qualify for any other MA programs. BEM 110 through 148. As a result, the Department closed Petitioner's MA benefit case effective September 1, 2018, ongoing.

On August 24, 2018, Petitioner submitted a request for hearing disputing the Department's decision to close her MA benefit case. On September 26, 2018, a hearing

was held with MAHS. On January 7, 2019, a Hearing Decision was issued by MAHS affirming the MRT's decision that Petitioner was not disabled, and therefore, not eligible for SSI-related MA. However, the Hearing Decision did not address whether Petitioner was income ineligible under the HMP program. Petitioner submitted a second hearing request on February 4, 2019. As a determination by MAHS was not issued related to Petitioner's eligibility under the HMP program, it will be discussed in this decision.

The Department concluded that Petitioner was not eligible for HMP because her household income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is 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's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner was married and living with her husband. The household for a tax filer, who is not claimed as at tax dependent consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of two.

133% of the annual FPL in 2018 for a household with two members is \$21,891.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$21,891.80 (1,824.32 per month). 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/>

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 currently monthly income and family size. See:

[https://www.michigan.gov/documents/mdhhs/MAGI-Based\\_Income\\_Methodologies\\_SPA\\_17-0100\\_-\\_Submission\\_615009\\_7.pdf](https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf)

The Department testified that Petitioner did not have income. The Department stated that the only household income was Petitioner's husband's income from employment. The Department presented Petitioner's husband's pay statements utilized to determine Petitioner's MA eligibility under the HMP program (Exhibit C). The documents show that on July 10, 2018, Petitioner's husband had gross earnings in the amount of \$ [REDACTED] and had pre-tax deductions for insurance coverage and retirement contributions in the amount of \$ [REDACTED]. Petitioner's husband also received payment on July 24, 2018, in the gross amount of \$ [REDACTED] with \$ [REDACTED] in pre-tax withholdings. The Department testified that it did not reduce Petitioner's husband's income by the pretax deductions. Therefore, the Department did not properly calculate Petitioner's household income in accordance with MAGI policies. Additionally, Petitioner's husband's total gross earnings of \$ [REDACTED] were not even above the income limit under the HMP program. It is unclear as to why the Department determined Petitioner was not eligible for benefits under the HMP program. Thus, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's MA benefit case.

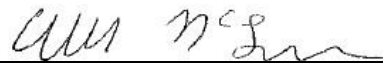
### DECISION AND ORDER

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 establish that it acted in accordance with policy when it closed Petitioner's MA benefit case. 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 MA eligibility as of September 1, 2018, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive as of September 1, 2018, ongoing; and
3. Notify Petitioner of its MA decision in writing.

EM/jaf



**Ellen McLemore**

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**

Pam Farnsworth  
MDHHS-Monroe-Hearings

**Petitioner**

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[REDACTED] MI [REDACTED]

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