



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 7, 2019  
MOAHR Docket No.: 19-001958  
Agency No.: ██████████  
Petitioner: ██████████

**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 April 10, 2019, from Detroit, Michigan. Petitioner's wife, ██████████, appeared and represented herself. The Department of Health and Human Services (Department) was represented by Julie McLaughlin, Family Independence Manager, and Christy Hershey, Eligibility Specialist. During the hearing, a 19-page packet, numbered backwards from 19 to 1, was offered and admitted into evidence as Exhibit A, pp. 19-1.

**ISSUE**

Did the Department properly close Sue McKenney's Medicaid (MA) benefits case under the Healthy Michigan Plan, 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. ██████████ was an ongoing recipient of full-coverage MA benefits from the Department. She lived in a household with Petitioner and their disabled adult child.
2. At all relevant times, ██████████ was receiving earned income of ██████████ per month. Petitioner had income of \$1,241 per month in Retirement, Survivors, and Disability Insurance (RSDI). Exhibit A, pp. 12-9.

3. The group's benefits were certified through February 28, 2019. On January 4, 2019, the Department issued to Petitioner a Redetermination to gather relevant information regarding the group's ongoing eligibility for MA benefits beyond February 28, 2019. Exhibit A, pp. 8-1.
4. On February 7, 2019, the Department received the completed Redetermination.
5. On February 13, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner and [REDACTED] that [REDACTED]. [REDACTED] MA benefits were closing, effective March 1, 2019, as a result of Petitioner's income exceeding the limit for program eligibility. Exhibit A, pp. 16-14.
6. On February 21, 2019, [REDACTED] submitted to the Department a request for hearing objecting to the closure of her 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).

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, [REDACTED] was an ongoing recipient of MA benefits under the full-coverage HMP plan through the end of February 2019. On February 13, 2019, the Department issued a Health Care Coverage Determination Notice informing [REDACTED]. [REDACTED] that her MA benefits were closing, effective March 1, 2019, based on the Department's conclusion that [REDACTED] countable income exceeded the limit for program eligibility. At all times relevant to this matter, [REDACTED] lived with her husband and their disabled adult child. Her husband received monthly RSDI income of \$1,241 and [REDACTED] received monthly earned income of \$[REDACTED]. Their disabled adult child had some income as well, but that income was not factored into the determination of [REDACTED] MA eligibility by the Department. [REDACTED] timely filed a hearing request objecting to the Department's action.

[REDACTED] is under age 65, not disabled, and not enrolled in Medicare. Thus, she is potentially eligible for MA under the HMP. An individual is eligible for HMP if the household's income does not exceed 133% of the FPL applicable to the individual's group size. BEM 137 (January 2019), p. 1. A determination of group size under the

MAGI methodology requires consideration of the client's tax status and dependents. MAGI-Related Eligibility Manual (MREM), (May 2014) § 5. An adult child may be claimed as a dependent if he or she meets the test to be a qualifying child. Relevant to the instant matter, if a taxpayer provided more than half the support of his or her live-in permanently and totally disabled adult child and the child did not file a tax return, the child is a qualified child and may be claimed as a dependent. 2018 IRS Publication 501, p. 11.

In this case, [REDACTED] testified that she and her husband filed taxes jointly and claimed their disabled adult child as a dependent, which based on the evidence presented was appropriate. Thus, the evidence suggests that Petitioner's household size for MAGI purposes is three. 42 CFR 435.603(f)(3). 133% of the annual FPL for a household with three members is \$28,368.90. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$28,368.90.

The Department testified during the hearing that [REDACTED] eligibility was determined based on a household size of two, which included only [REDACTED] and [REDACTED] husband. The Department further determined that [REDACTED] countable household annual income totaled \$[REDACTED], which was slightly higher than the limit for program eligibility for a household of two.

However, as stated above, [REDACTED] eligibility should have been determined based on a her having a household size of three. The Department should have made a determination as to what income from [REDACTED] disabled adult child was countable and then based [REDACTED] eligibility determination on the countable income of the household of three while using the income limit for a household of three. The Department instead based her eligibility on the incorrect determination that her household size was two. Thus, the Department failed to substantiate its finding that [REDACTED]. [REDACTED] was income ineligible for MA benefits under the HMP.

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 [REDACTED] MA benefits under the HMP, effective March 1, 2019, as a result of the Department's finding that she was income ineligible for the program as the Department based [REDACTED] eligibility determination on the wrong household size.

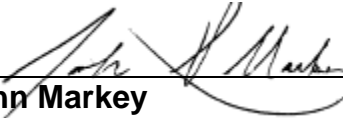
### **DECISION AND ORDER**

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. Reinstate [REDACTED] MA benefits under the HMP, effective March 1, 2019;
2. Reprocess [REDACTED] 2019 MA Redetermination;
3. Properly determine [REDACTED] eligibility for MA benefits under the HMP using the correct income and household size of three;
4. Provide [REDACTED] with the most favorable MA benefits she is entitled to in accordance with Department policy; and
5. Notify [REDACTED] in writing of its decision.

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

**Via Email:**

MDHHS-Muskegon-Hearings  
D. Smith  
EQAD  
BSC3- Hearing Decisions  
MOAHR

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

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