



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: April 26, 2019  
MOAHR Docket No.: 19-002937  
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 April 25, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator. During the hearing, a 22-page packet of documents of was offered and admitted into evidence as Exhibit A, pp. 1-22.

**ISSUE**

Did the Department properly close Petitioner's Medicare Savings Plan (MSP) coverage, effective April 1, 2019?

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) coverage, effective April 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 is disabled and was an ongoing recipient of full-coverage MA benefits under the AD-Care program and MSP benefits from the Department.
2. On January 4, 2019, the Department issued to Petitioner a Redetermination to gather relevant information regarding Petitioner's ongoing eligibility for MA and MSP benefits. Exhibit A, pp. 3-10.

3. On February 5, 2019, Petitioner returned the completed Redetermination form to the Department. On the Redetermination, Petitioner reported that she was receiving RSDI and earned income. Exhibit A, pp. 3-10.
4. The Department processed Petitioner's submission and determined that Petitioner had \$1,182 in monthly unearned income in the form of RSDI and \$[REDACTED] in monthly earned income from her employment. Exhibit A, pp. 11-15.
5. On February 28, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MSP case was closing, effective April 1, 2019, and her MA coverage was switched to the Freedom to Work (FTW) plan with a \$58.40 monthly premium, effective April 1, 2019. Exhibit A, pp. 16-19.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the closure of her MSP case and change of her MA coverage from a full-coverage plan to the FTW plan that has a deductible.
7. After the hearing request was filed, the Department reassessed Petitioner's eligibility for MSP. It was found that Petitioner was eligible, and the Department issued a Health Care Coverage Determination Notice informing Petitioner that she was eligible, effective April 1, 2019. Thus, the Department's subsequent action resulted in Petitioner suffering no lapse in eligibility for MSP benefits. Petitioner requested to withdraw her hearing request with respect to that issue on the record at the 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).

#### **MSP CLOSURE, EFFECTIVE APRIL 1, 2019**

Petitioner's [REDACTED], 2019, hearing request disputed the Department's closure of Petitioner's MSP coverage, effective April 1, 2019. At the hearing, the Department witness presented Petitioner with a subsequently issued Health Care Coverage Determination Notice reinstating Petitioner's MSP coverage, effective April 1, 2019. Thus, Petitioner did not suffer any lapse in MSP coverage. Upon receiving that document, Petitioner requested to withdraw her hearing request with respect to her MSP coverage. As the issue leading to the hearing request has been resolved and Petitioner was provided with written notice of that fact, Petitioner's request to withdraw her hearing request with respect to that program is approved. Accordingly, Petitioner's hearing request is **DISMISSED** with respect to the MSP coverage.

## MA COVERAGE, EFFECTIVE APRIL 1, 2019

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's MA benefits case was due for redetermination. Upon processing Petitioner's case, Petitioner's MA benefits were certified under the FTW program with a \$58.40 deductible, effective April 1, 2019. At the time, Petitioner's monthly income consisted of \$1,184 in RSDI income and \$[REDACTED] in earned income from employment.

As a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, p. 3. The Department determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. BEM 174, p. 3. The Department determines income deductions using BEM 540 (for children) or 541 (for adults). BEM 174. Unemployment compensation benefits are not countable income for FTW. BEM 174, p. 3.

Petitioner was not married, and per policy, her fiscal group size for SSI-related MA benefits is one. BEM 211 (February 2019), p. 8. 250% of the annual FPL in 2019 for a household with one member is \$31,225. See <https://aspe.hhs.gov/poverty-guidelines>. As Petitioner's income was below that amount, Petitioner was eligible for FTW coverage.

Depending on an individual's income, FTW coverage may be provided either with or without a premium. BEM 174, p. 3. There are no premiums for individuals with Modified Adjusted Gross Income (MAGI) less than 138% of the FPL. BEM 174, p. 3. A premium of 2.5% of income will be charged for an individual with MAGI income of between 138% of the FPL and \$75,000 annually. BEM 174, p. 3.

Petitioner's monthly countable income consisted of \$1,184 in RSDI and [REDACTED] in earned income. That amounts to a monthly income of \$[REDACTED], which is above 138% of the FPL but less than \$75,000 annually. Thus, the applicable premium is 2.5% of Petitioner's income. To calculate the monthly premium under the FTW, the Department multiplies that figure by .025. The result is the monthly premium. In this case, the Department correctly concluded that Petitioner's FTW coverage required a premium of \$58.40.

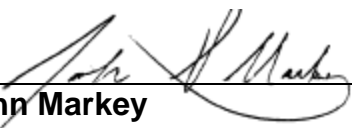
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner's MA benefits, effective April 1, 2019.

During the hearing, it became clear that circumstances had changed since the hearing request was filed. Petitioner was no longer working and was thus not earning any income. The Department worker stated that Petitioner reported the change to the Department and that because Petitioner left her work for medical reasons, she should be able to remain on the FTW for up to 24 months without any deductible. It appeared that Petitioner was instead moved to a less favorable plan that required a monthly deductible be met before getting coverage. However, the Department had not yet issued a decision on that issue nor had Petitioner submitted a hearing request that would grant the undersigned Administrative Law Judge jurisdiction to address the issue. If Petitioner is not satisfied with any actions taken subsequent to the hearing request filed in this matter and wishes to have a hearing regarding that action, she must file a timely hearing request contesting that action.

#### **DECISION AND ORDER**

Accordingly, Petitioner's hearing request with respect to Petitioner's MSP benefits is **DISMISSED**, and the Department's decision with respect to Petitioner's MA benefits is **AFFIRMED**.

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 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-Ingham-Hearings  
D. Smith  
EQAD  
BSC2- Hearing Decisions  
MAHS

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

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