



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], MI [REDACTED]

Date Mailed: May 28, 2019  
MOAHR Docket No.: 19-004014  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

### **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 22, 2019, from Lansing, Michigan. Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Janika Ashwood, Eligibility Specialist.

Respondent's Exhibit A pages 1-10 were admitted as evidence.

### **ISSUE**

Did the Department properly determine that Petitioner had a deductible spend-down for purposes of Medical Assistance (MA) benefits eligibility?

### **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 a medical assistance benefit recipient.
2. On March 5, 2019, the Department notified Petitioner that she was eligible for full medical coverage from March 1, 2019, through March 31, 2019. From April 1, 2019, Petitioner was notified that she had medical coverage with a monthly deductible in the amount of \$585.00 due to an increase in Petitioner's RSDI income budget.

3. Petitioner receives \$ [REDACTED] per month in RSDI income which equals \$ [REDACTED] per year in RSDI income.
4. On April 1, 2019, Petitioner filed a request for hearing to contest the Department's negative action.
5. On April 26, 2019, the Michigan Office of Administrative Hearings and Rules received a copy of the hearing summary and attached documents.
6. On May 22, 2019, the hearing was held.
7. The Department caseworker conceded on the record that the deductible amount of \$585.00 was an error.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Michigan provides MA eligible clients under two general classifications: group 1 and group 2 MA. Petitioner qualified under the group 2 MA classification which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. PEM 105. In order to qualify for group 2 MA, a medically needy client must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimants in Adult Care Homes.

If Petitioner's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. This process is known as a spend-down. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

In the instant case, the Department calculated Petitioner's income based upon receipt of unearned income from Social Security Disability.

Petitioner's Gross Monthly Income is \$ [REDACTED]. She was given a \$20.00 disregard and determined to have a net income of \$ [REDACTED]. She was given a deduction for insurance premiums of \$104.90 and given a countable monthly income of \$ [REDACTED]. The Protected income limit of a one-person household in Petitioner's circumstances is \$375.00.  $\$960.10 - \$375.00 = \$585.00$  in remaining deductible under this Medical Assistance category.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, page 1

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. The

Department must consider all the MA options in order for a Petitioner's right of choice to be meaningful. BEM 105, page 2

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The Healthy Michigan Plan provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age.
- Do not qualify for or are not enrolled in Medicare.
- Do not qualify for or are not enrolled in other Medicaid programs.
- Are not pregnant at the time of application.
- Meet Michigan residency requirements.
- Meet Medicaid citizenship requirements.
- Have income at or below 133% Federal Poverty Level (FPL) Cost Sharing.

The Healthy Michigan Plan has beneficiary cost sharing obligations. Cost sharing includes copays and contributions based on income, when applicable. Copayments for services may apply to HMP beneficiaries. Prior to enrollment in a health plan, beneficiaries are eligible to receive Healthy Michigan Plan services through the Fee-for-Service system. Copays are collected at the point of service, with the exception of chronic conditions and preventive services. Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). BEM 137, pages 1-3

Department policy requires the department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

Retirement income includes annuities, private pensions, military pensions, and state and local government pensions. Refer to the specific sections in this item for policies regarding:

- Railroad Retirement Board benefits.
- Retirement, Survivors and Disability Insurance (RSDI).
- U.S. Civil Service and Federal Employee Retirement System.

Count the gross benefit as unearned income. (BEM 503, page 30)

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income.

Exception:

Special budgeting rules apply when determining eligibility for MAGI related Medicaid. Benefits may be 0%, 50% or 85% countable. The calculation is contained within the MAGI rules engine. The RSDI budgetable income worksheet may be used to verify the calculation. BEM 503, page 31

HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his/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 and his wife claimed their daughter as their dependent. 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's wife as having a group size of three.

133% of the annual FPL in 2018 for a household with three members is \$27,637.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and Petitioner's wife's annual income cannot exceed \$27,637.40. 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, 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 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

Household limits for a one-person household between age 19-64 is \$16,039.80. Thus, the Healthy Michigan Plan appears to be the more advantageous program for Petitioner.

Therefore, this Administrative Law Judge finds the Department has not established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when determined that Petitioner's household has excess income for purposes of MA benefit eligibility under the circumstances. The Department has not established its case by a preponderance of the evidence presented on the record.

### **DECISION AND ORDER**

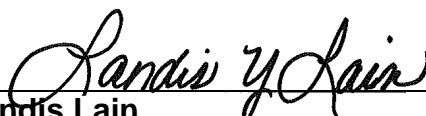
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has not adequately provided explanation of how it determined Petitioner's household income amount for purposes of MA eligibility.

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 TEN DAYS OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's MA Budget consistent with this Decision;
2. Notify Petitioner of the Department's calculations and specific budget determination information; and
3. If Petitioner is otherwise eligible, reinstate Petitioner's Medical Assistance case for the months of April and May 2019. Petitioner does have ongoing Medical Assistance from June 2019 forward.

LL/hb

  
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**Landis Lain**  
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

**DHHS**

Denise McCoggle  
27260 Plymouth Rd  
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]