



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: July 1, 2019
MOAHR Docket No.: 19-005236
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 June 27, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's and his wife's Medical Assistance (MA) Program benefits?

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 and his wife were ongoing MA recipients in the Healthy Michigan Plan (HMP) category.
2. Petitioner is a Retirement, Survivors and Disability Insurance (RSDI) recipient receiving \$813.00 effective December 1, 2017 and \$836.00 effective December 1, 2018.
3. On April 9, 2019, the Department issued a New Hire Client Notice to Petitioner for his wife's new employment at ██████████ (Employer).

4. On April 19, 2019, the Department received the completed New Hire Client Notice from Petitioner's wife indicating she was employed 30 hours per week beginning March 18, 2019 earning \$ [REDACTED] every two weeks.
5. On the same day, the Department also received a copy of Petitioner's wife's paystub from pay date April 4, 2019 showing a gross income of \$ [REDACTED] and net income of \$ [REDACTED]
6. On May 6, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that both he and his wife were no longer eligible for MA benefits under the Healthy Michigan Plan (HMP) because of excess income over the income limit.
7. On May 16, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of MA benefits for himself and his wife.

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 disputes the Department's determination of his and his wife's MA eligibility. MA is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. HMP 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 Modified Adjusted Gross Income (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. BEM 137 (April 2018), p. 1; MPM, Healthy Michigan Plan, § 1.1.

The Department denied Petitioner's MA application because he had excess income for HMP purposes. No evidence was presented that Petitioner or his wife were disabled, or that they had any dependents. In addition, Petitioner is age [REDACTED] and his wife is age [REDACTED]. Therefore, Petitioner and his wife do not qualify for any other programs except possibly the HMP.

To determine eligibility for HMP, a determination of group size using the MAGI methodology, consideration of the client's tax status and dependents, is required. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, Petitioner's MA group size is two as he is married and has no dependents for tax purposes. 133% of the FPL for a group size of two is \$22,490.30 as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and his wife's annual income cannot exceed \$22,490.30 for a group size of two or \$1,874.19 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it 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. *Id.* 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, childcare, or retirement savings. *Id.* In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. Effective October 1, 2018, all RSDI income is countable for tax-filers and adults not claimed as dependents. BEM 503 (October 2018), p. 30.

Petitioner receives [REDACTED] per month as an RSDI benefit; however, the Department only budgeted \$[REDACTED] per month which was Petitioner's previous RSDI benefit rate. His wife has earned income and received a paycheck for \$[REDACTED] in gross wages and \$[REDACTED] in net wages. No deductions were made for health coverage, childcare, or retirement savings. Thus, her gross wages must be used to calculate her MAGI income. Petitioner's wife's annual MAGI income is \$[REDACTED] (730.01*26 paychecks). Her MAGI monthly income is \$[REDACTED]. Their combined monthly MAGI income is \$[REDACTED] (when using Petitioner's old RSDI benefit rate). Therefore, Petitioner and his wife have excess income for HMP purposes and are not eligible for benefits.

An exception exists to the income limit rule if an individual's group income is within 5% of the FPL for the applicable group size, a disregard is applied in order to make the person eligible for MA. MREM, § 7.2. After consideration of the 5% disregard, the income limit is \$23,335.80 or \$1,944.65 per month. Petitioner's and his wife's income is still greater than the income limit even after the 5% disregard. Therefore, they are still not eligible for HMP.

Finally, Petitioner argued at the hearing that his wife's income was fluctuating based upon hours and that it was seasonal. While the Department was made aware that his wife's income was seasonal, the Department is required to consider current monthly income. Since she was working at the time of the evaluation, the Department must consider the income from that month and not any other month. However, the Department was not informed until Petitioner's hearing request or his pre-hearing conference that his wife's income fluctuates from week to week. Since the Department was unaware of this issue, the Department was unable to factor the fluctuating income into its budgets and therefore the fluctuating income is not considered here. If Petitioner and his wife believe they are eligible for MA benefits at another time based upon her fluctuating income, then they may reapply.

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 that Petitioner and his wife had excess income for HMP and were ineligible for MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AMTM/jaf



Amanda M. T. Marler

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

DHHS

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

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