



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.: 19-005278  
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 Olivette Gordon, Family Independence Manager.

**ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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 an ongoing MA recipient enrolled in the Ad-Care MA category.
2. In April 2019, Petitioner was undergoing the Redetermination process.
3. Petitioner receives \$1,502.00 per month as his Retirement, Survivors and Disability Insurance (RSDI) benefit and is responsible for his Medicare Part B premium in the amount of \$135.50.
4. On May 8, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that he was not eligible for MA benefits effective May 1, 2019 because he was not under age 21, not pregnant,

not a parent or caretaker of a minor child in the home, not a former foster child, is eligible or enrolled in Medicare, not over age 65, not blind, and not disabled.

5. On May 16, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of MA benefits and listing his household expenses.
6. At the hearing, the Department testified that Petitioner had been placed in the Group 2-Aged, Blind, Disabled (G2S) but the budget and HCCDN presented conflict with the Department's testimony.

### **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 contested the Department's determination that Petitioner was ineligible for MA benefits. 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's HCCDN indicates that Petitioner is not disabled. However, the Department conceded through testimony that Petitioner is disabled and is under age 65. Therefore, if he was eligible for MA benefits, he may be eligible for Ad-Care which is the full coverage MA program for people with disabilities or G2S which is the MA deductible program for people with disabilities.

The Department also testified that Petitioner is eligible for MA with a deductible. Yet, the Department's budget shows that Petitioner does not have a deductible after the Department considered an unearned allocation to non-SSI-Related Children for \$386.00, the \$20.00 general income exclusion, the \$135.50 Medicare Part B Premium, as well as \$1,059.74 in medical expenses. The Department could not explain the allocation to non-SSI-related children nor the consideration of medical expenses.

Since Petitioner is disabled by the Department's own admission and because the evidence presented by the Department is contradictory showing both eligibility for benefits and ineligibility for benefits, the Department has not met its burden of proof.

Finally, if Petitioner is eligible for the Ad-Care program, he is automatically eligible for the Medicare Savings Program (MSP) which would pay for his Medicare premiums for Part A and B as well as Medicare coinsurances and deductibles. BEM 165 (January 2018), pp. 2-3.

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 satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefits.

### **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. Redetermine Petitioner's MA eligibility effective May 1, 2019;
2. If Petitioner is otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/jaf



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**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**

Richard Latimore  
MDHHS-Wayne-57-Hearings

**Petitioner**

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