



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: July 2, 2019
MOAHR Docket No.: 19-005292
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 26, 2019, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefits effective June 1, 2019 due to excess income?

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 recipient of MA benefits until June 1, 2019.
2. On April 23, 2019, the Department sent Petitioner a Wage Match Client Notice to be completed by his employer.
3. On May 7, 2019, Petitioner submitted the completed Wage Match Client Notice form.
4. The Department redetermined Petitioner's eligibility for MA benefits and on May 8, 2019, it sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that he was ineligible for MA benefits effective June 1, 2019 due to excess income.

5. On May 15, 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under 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 is a MAGI-related MA category that 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 (January 2019), p. 1.

Petitioner, who is under age 64, not enrolled in Medicare and not the caretaker of any minor children is potentially eligible for MA under the HMP. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Petitioner's household size for MAGI purposes is one. 133% of the annual FPL in 2019 for a household with one member is \$16,611.70. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70.

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 (January 2016), 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, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year."

Prospecting income means arriving at a best estimate of the person's income. Prospect income when estimating income to be received in a processing or future month. The best estimate may not be the exact amount of income received. Some of the reasons income fluctuates is because:

- The number of hours worked in a month may fluctuate.
- The amount of tips may vary from payday to payday.

Under Department policy, the following guidelines for prospecting income are to be used:

- For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings.
- Paystubs showing year-to-date earnings and frequency of pay are usually as good as multiple paystubs to verify income.
- A certain number of paystubs is not required to verify income. If even one paystub reflects the hours and wages indicated on the application, that is sufficient information.
- If a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs... BEM 530 (July 2017), pp. 3-4.

Petitioner testified that he is typically laid off at the end of the year and returns to work in late February. Upon return to work, February and March are usually light months and as such, he works significantly less hours. Further, Petitioner testified that he also works significantly less hours in the summer months. Petitioner provided his 2018 W-2 form which indicated that he earned \$ [REDACTED]

A review of the Wage Match Client Notice form completed by Petitioner's employer on May 7, 2019, supported Petitioner's testimony of fluctuating income. Petitioner's last pay for 2018 was received on January 3, 2019. Petitioner did not receive any pay again until February 28, 2019. Further, in February and March 2019, Petitioner earned significantly less than in other months. Given that Petitioner's income is not consistent throughout the year, it is likely that Petitioner's income will not exceed the income limit. Accordingly, it is found that the Department failed to establish that Petitioner has exceeded or will exceed the income limit for MA benefits in 2019.

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 Petitioner's MA benefits effective June 1, 2019.

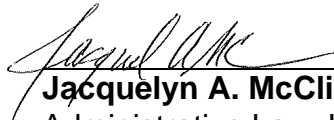
DECISION AND ORDER

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 and redetermine Petitioner's MA benefits effective June 1, 2019 based upon his fluctuating income;
2. If Petitioner was eligible for supplements, issue MA supplements that Petitioner was eligible for but did not receive effective June 1, 2019; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton

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-Oakland-6303-Hearings
BSC4
EQAD
[REDACTED]
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]