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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: June 27, 2019
MOAHR Docket No.: 19-005537
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 24, 2019, from Detroit, Michigan. The Petitioner was self-represented and had his wife, ██████████ appear as a witness. The Department of Health and Human Services (Department) was represented by Michelle Morley, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's and his wife'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. On March 27, 2019, Petitioner submitted an application for MA benefits.
2. On April 8, 2019, Petitioner submitted a retroactive application for MA benefits for December 2018, January 2019, and February 2019 for both himself and his wife.
3. On April 9, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that neither he nor his wife were not eligible for the Healthy Michigan Plan (HMP) because of excess income; at the time, his application was still pending for disability related MA benefits.

4. On May 6, 2019, the Department received Petitioner's request for hearing disputing the Department's determination of MA eligibility.
5. On May 28, 2019, the Department issued a HHCDN to Petitioner informing him that Petitioner was eligible for MA with a deductible of \$2,105.00 effective December 1, 2018, \$2,104.00 effective February 1, 2019, and \$2,181.00 effective April 1, 2019 but that his wife was not eligible for MA benefits because she was active on another case.
6. At the hearing, the Department testified that Petitioner's wife's case was closed and that she was placed on Petitioner's case with eligibility for MA with a deductible; no documentation was presented to show the closure of her case or her placement on Petitioner's case with active MA deductible eligibility.

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 disputed the Department's denial of MA benefits based upon his income. 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 for HMP purposes because he had excess income for HMP purposes. However, at the hearing, evidence was presented

that both Petitioner and his wife are Medicare eligible and receive some sort of Medicare coverage. Since Petitioner and his wife are eligible for and receive Medicare, neither is eligible for HMP.

Even if Petitioner was not eligible for or receiving Medicare, Petitioner's income exceeds the HMP income limit. To determine group size under the MAGI methodology, consideration of the client's tax status and dependents and group size 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 \$22,490.0 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.* 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 \$2,007.50 per month as an RSDI benefit. His wife receives \$805.00 per month for her RSDI benefit. Therefore, their combined monthly income is \$2,812.50 per month. Petitioner's income for HMP purposes is greater than the limit and he is not eligible for coverage.

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 \$23,335.8 or \$1,944.65 per month. Petitioner's income is greater than the income limit even after the 5% disregard. Therefore, he is still not eligible for HMP.

Finally, Petitioner's hearing request was submitted to the Department on May 6, 2019. The Department issued a new decision regarding Petitioner's and his wife's MA eligibility on May 28, 2019. Since the new decision was issued after Petitioner's request for hearing, the new decision was not the basis of his request and cannot be considered here. Policy provides that only those issues arising from the Department's decisions which occurred in the 90 days prior to a hearing request may be evaluated at the hearing. BAM 600 (October 2018), p. 6. Petitioner's wife can only be active in one MA case at a time.

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 denied Petitioner and his wife HMP coverage.

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

Sheila Crittenden
MDHHS-Wexford-Hearings

Petitioner

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