



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 25, 2019
MOAHR Docket No.: 19-005809
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an in-person hearing was held on October 1, 2019, in Livingston County MDHHS.

Petitioner personally appeared and testified. Petitioner called Kate Fox, CMH Mental Health Therapist as a witness.

The Department of Health and Human Services (Department) was represented by Brenda Bolek, FIM.

ISSUE

Did the Department properly close Petitioner's son's Other Healthy Kids (OHK) Medicaid (MA)?

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's son, DOB [REDACTED], was approved OHK MA based on age.
2. Petitioner's son is disabled.
3. On May 10, 2019, the Department issued a Health Care Determination Notice informing Petitioner that her son's MA will close due to the group's income exceeding the income cap.

4. The cap for HMP for a family of four is \$50,212. Petitioner's family income was verified at \$ [REDACTED]
5. On May 28, 2019, Petitioner filed a hearing request.

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.

Applicable policy to the facts herein is found primarily at 42 CFR 435.118, 457.10, and BAM 220; BEM 110, 125, 126, 135, 163, and 166.

In this case, Petitioner's son was eligible regardless of income until he was one year old. At that time, the Department was required to assess income eligibility and eligibility for all potential MA categories. The Department testified that it had done so, and found that the only potential category was MI Child, and HMP. Under these programs, Petitioner's family, which is a group size of four, with a taxable income of \$ [REDACTED] was over the cap of \$54,590. While this is unfortunate as it is only about \$ [REDACTED] it is nevertheless, federal and state policy and law as to the cap for eligibility.

While the undersigned would like to make an exception on behalf of Petitioner and her son, the undersigned has no authority to make any exceptions where there would not be eligibility otherwise. The purview of an Administrative Law Judge is to review the Department's action, and, to make a determination if the evidence of record supports that action taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not support by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

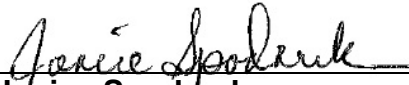
Petitioner does argue that the notices she received were misleading to the extent that most contained a 12-month approval period. However, shortly thereafter, when her dependent turned 1 year old, the MA was closed. Petitioner essentially makes a contract law argument—Petitioner cannot prevail in a welfare benefits case where there is no quid pro quo.

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 closed Petitioner's son's MA due to excess income.

DECISION AND ORDER

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

JS/hb



Janice Spodarek
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

Kelly Sutherland
2300 E Grand River Ste. 1
Howell, MI 48843

Livingston County, DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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