



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 26, 2019  
MOAHR Docket No.: 19-006378  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 July 24, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist, and [REDACTED] Family Independence Manager.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) Program Healthy Michigan Plan (HMP) benefits and place her in the Group 2 Caregivers (G2C) MA category?

**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 HMP recipient.
2. On April 24, 2019, the Department sent Petitioner a Wage Match Client Notice requesting information related to her new employment.
3. On May 22, 2019, the Department received the form with paystubs for the period March 22, 2019 through May 10, 2019.

4. On the same day, the Department issued a Notice of Case Action to Petitioner informing her that she was no longer eligible for HMP effective July 1, 2019 due to excess income and would be placed in the MA G2C program with a deductible of [REDACTED] per month.
5. On June 11, 2019, the Department received Petitioner's request for hearing disputing the Department's decision to close her HMP benefits and place her in a deductible program.

### **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 closure of her HMP benefits, placement in the deductible program, and the amount of the deductible. 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.

Since Petitioner is not under 21 or over 64, nor is she pregnant, blind, or disabled, Petitioner does not qualify for any of programs listed above involving these eligibility factors. If Petitioner is eligible for benefits, she may qualify for MA under the HMP

program as she meets all non-financial eligibility factors, or she may be eligible for an MA program because she is a parent/caregiver.

A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (February 2019), pp. 1-2. Therefore, Petitioner's MA group size is three as she is single and has two dependents for tax purposes. 133% of the FPL for a group size of three is [REDACTED] as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED] for a group size of three or [REDACTED] 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.* This figure is multiplied by the number of paychecks the client expects during the year to estimate income for the entire year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. 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. *Id.*

Petitioner had the following wages from Rent-A-Center (Employer):

|                |               |
|----------------|---------------|
| March 22, 2019 | [REDACTED]    |
| March 29, 2019 | \$ [REDACTED] |
| April 05, 2019 | [REDACTED]    |
| April 19, 2019 | [REDACTED]    |
| April 25, 2019 | [REDACTED]    |
| May 03, 2019   | [REDACTED]    |
| May 10, 2019   | [REDACTED]    |

The additional wages on March 29<sup>th</sup> and April 25<sup>th</sup> result from month end bonuses/commission. The Department did not identify which paystubs were considered in determining Petitioner's eligibility. As discussed above, the Department is required to consider the current monthly income to determine eligibility. Therefore, the paystubs from April 19<sup>th</sup> through May 10<sup>th</sup> will be considered for purposes of this decision as these are the most current. Petitioner's monthly income for this period is \$ [REDACTED] which is less than the [REDACTED] budgeted by the Department. However, despite the reduced income calculation, Petitioner is still above the MA HMP income limit of [REDACTED] per month.

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 \$ [REDACTED] or \$ [REDACTED] per month. Petitioner's income is less than the income limit after the 5% disregard is applied. Therefore, the Department erred in closing Petitioner's MA HMP benefits.

Since Petitioner is eligible for MA HMP after application of the disregard, no further evaluation is necessary of any deductible programs because Petitioner is entitled to receive the most beneficial MA program that she is eligible to receive. BEM 105 (April 2017), p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income, or the lowest cost share. *Id.* HMP does not require a deductible and excess income is not a factor. The program that Petitioner was placed in after being removed from HMP requires a deductible based upon excess income. Therefore, HMP is the most beneficial.

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 HMP case and placed her in the MA G2C deductible category.

### **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 HMP eligibility effective July 1, 2019;
2. If Petitioner is otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.

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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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**cc:**

[REDACTED]  
[REDACTED]