



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: August 26, 2019
MOAHR Docket No.: 19-007426
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 August 22, 2019, from Detroit, Michigan. Petitioner was present with her husband [REDACTED]. The Department of Health and Human Services (Department) was represented by Robin Patterson, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

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 State Supplemental Income (SSI) recipient.
2. In May 2019, the Department discovered that Petitioner SSI benefit had ended in December 2018.
3. Effective May 31, 2019, Petitioner's SSI MA benefit case was closed.
4. Effective June 1, 2019, Petitioner was transitioned to SSI Termination (SSIT) MA.
5. On July 8, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing effective August 1, 2019 (Exhibit A, pp. 16-19).

6. On [REDACTED] 2019, Petitioner submitted an application for MA benefits (Exhibit A, pp. 4-16).
7. The Department processed the application and determined Petitioner was not eligible for any MA programs.
8. Petitioner submitted 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.

In this case, Petitioner was an ongoing MA SSI recipient. The Department discovered that Petitioner's SSI benefit case was closed in December 2018. The Department transitioned Petitioner to SSIT MA. Petitioner submitted an application for MA benefits on [REDACTED] 2019. The Department determined that as of the date of the application, Petitioner was not eligible for any other MA program.

The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150 (April 2017), p. 1. SSI recipients who are Michigan residents receive MA-SSI coverage for the duration of SSI eligibility. BEM 150, p. 6. When SSI benefits stop, the Department evaluates the reason based on the SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfers the client's MA case to SSIT type of assistance until a redetermination is completed to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150, p. 6.

During the ex parte review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client and her authorized representative a redetermination packet that includes the DCH-1426, Application for Health Coverage & Help Paying Cost, and the word version of the DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. A determination of eligibility for another MA program or total ineligibility

for any program must be completed before SSIT can close. BEM 150, p. 7. When the expedite review shows that a recipient does have eligibility for MA under another category, the Department must change the coverage. BAM 220, p. 17. If MA eligibility does not exist, the Department will send a negative action notice. BEM 150, p. 7.

The Department concluded that Petitioner was not eligible for MA benefits under the Healthy Michigan Plan (HMP) program because her household income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household of a non-tax filer who is not claimed as a tax dependent consists of the individual and, if living with the individual: (i) the individual's spouse; (ii) the individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student; and (iii) if the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student). BEM 211 (February 2019), p. 2. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of two.

133% of the annual FPL in 2019 for a household with two members is \$22,490.30. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$22,490.30 (1,874.19 per month). To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, 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. 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department testified that Petitioner's husband's income from employment placed Petitioner over the income limit under the HMP program. Petitioner's husband testified that his annual income in 2018 was around \$[REDACTED]. Petitioner's husband stated that his income is currently higher than in 2018, as he received a raise. Petitioner's husband conceded that in July 2018, his monthly income exceeded \$[REDACTED]. Therefore, the Department acted in accordance with policy when it determined Petitioner was not eligible for MA benefits under the HMP program.

The only other MA programs for which Petitioner is potentially eligible are the SSI-related MA programs. The Department testified that the Social Security Administration was contacted, and the Department was notified that Petitioner's SSI benefit case was closed due to excess income and Petitioner's failure to submit requested documents. The Department testified that Petitioner's application was transferred to Disability Determination Services (DDS). The Department stated that as Petitioner's SSI benefit case had been terminated, and she had not yet been determined as disabled by DDS, she did not qualify for MA under the SSI-related MA categories. As a result, the Department closed Petitioner's MA benefit case.

To receive MA under an SSI-related MA category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105 (April 2017), p. 1. If SSI eligibility based on disability or blindness was terminated due to financial factors, the Department must continue medical eligibility for MA. BEM 260 (July 2015), p. 1. Medical development and DDS certification are not initially required. BEM 260, p. 1. The Department must schedule a medical review 12 months from the date of SSI termination. BEM 260, p. 1. The client must also meet all financial and other nonfinancial factors for SSI-related MA. BEM 260, p. 1.

Petitioner and her husband testified that they were notified that they exceeded the income limit to receive SSI benefits. Petitioner's husband stated that the documents he failed to submit were pay statements. Petitioner stated that she was never found to be not disabled.

There was no evidence presented that Petitioner's SSI benefits were terminated due to a finding that she was not disabled. Based on the Department's and Petitioner's testimony, it is evident that Petitioner's SSI benefits were terminated due to financial reasons. Therefore, Petitioner's MA eligibility should have continued. Thus, the Department failed to properly follow policy when it closed Petitioner's MA benefit case.

DECISION AND ORDER

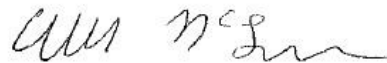
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

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 as of August 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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-Presque Isle-Hearings
D. Smith
EQAD
BSC1- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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