



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: September 3, 2019
MOAHR Docket No.: 19-007964
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 28, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Heather Hembree, Assistance Payments Supervisor. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly close Petitioner Medicaid (MA) case under the Healthy Michigan Program (HMP) category, effective August 1, 2019?

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 recipient of MA benefits under the HMP category.
2. On May 25, 2019, Petitioner began working for the [REDACTED]. Exhibit A, p. 6.
3. After receiving an alert from an automated system showing that Petitioner had recently become employed, the Department issued to Petitioner a June 19, 2019 New Hire Client Notice in order to gather relevant information regarding

Petitioner's new employment. Petitioner was required to complete the form and return it to the Department. Exhibit A, pp. 5-6.

4. On June 20, 2019, Petitioner received her first paycheck from her employment with [REDACTED] Exhibit A, p. 6.
5. On [REDACTED] 2019, Petitioner submitted to the Department the completed New Hire Client Notice along with a paystub. On the completed form, Petitioner certified that she was working 35 hours per week at an hourly rate of pay of \$20. Petitioner further stated that the job was only scheduled to last until August 25, 2019 as it was seasonal. Exhibit A, pp. 5-7.
6. On July 3, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective August 1, 2019, as a result of the Department's finding that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 8-11.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 recipient of MA benefits under the full-coverage HMP category. Petitioner obtained a new seasonal job on or about May 25, 2019, and shortly thereafter, the Department received notification of the new employment via an automated new hire match system. Upon receiving that notification, the Department issued to Petitioner a New Hire Client Notice. Petitioner completed the form and submitted it to the Department. According to Petitioner's submission, Petitioner was working 35 hours per week at an hourly rate of pay of \$20 and was expecting the employment to come to an end on or about August 25, 2019. Because Petitioner's self-reported income greatly exceeded the limit for HMP eligibility, the Department issued to Petitioner a July 3, 2019 Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective August 1, 2019.

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 is under age 64, not disabled, and not enrolled in Medicare. Thus, she is potentially eligible for MA under the HMP if the household's income does not exceed 133% of the FPL applicable to the individual's group size. In this case, Petitioner does not have any other group members. Thus, the evidence suggests that Petitioner's household size for MAGI purposes is one. 42 CFR 435.603(f). 133% of the annual FPL 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 household annual MAGI cannot exceed \$16,611.70. This figure breaks down a monthly income threshold of \$1,384.31.¹

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), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. 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 current monthly income and family size. https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf. However, in determining current monthly income, the Department must account for reasonably predictable decreases in income. *Id.*

As Petitioner was an ongoing recipient of MA benefits under the HMP, the Department determined Petitioner's financial eligibility on currently monthly income and family size. Based on the information provided in the New Hire Client Notice, Petitioner's monthly income at that time did exceed the limit for program eligibility. However, in addition to the wage information provided on the New Hire Client Notice, Petitioner indicated that her employment was scheduled to end as of August 25, 2019.

The Department was correct that the State of Michigan has chosen to base eligibility for ongoing recipients on current income. However, the State MA Plan also states that Michigan has elected to account for a reasonably predictable decrease in future income and/or family size. Specifically, the State MA Plan states:

If an applicant is aware of a reasonably predictable decrease in income (i.e. a seasonal worker) they can fill out the projected annual income field on Michigan's application. Additionally, a beneficiary that experiences any changes in their income or family size can report it to the Department at any time to have his changed taken into account. The Department

¹ \$16,611.70 divided by twelve.

attempts to electronically verify any income reported on an application or through the change process in accordance with the State's verification plan. If verification cannot be completed electronically, paper verification from the applicant/beneficiary is requested."

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

Although the State of Michigan has elected to use current monthly income, the Department must take into consideration the special circumstances of those individuals that experience changes in income, such as seasonal workers. Per the State MA Plan, those individuals can elect to have their income projected over the course of a year. Therefore, the Department did not act in accordance with policy when it only projected Petitioner's seasonal income for the entire year. Thus, the Department did not act in accordance with policy when it determined Petitioner's MA eligibility.

DECISION AND ORDER

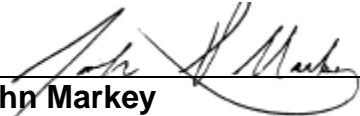
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's MA eligibility.

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. Provide Petitioner with MA benefits she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

JM/cg



John Markey
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-3-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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