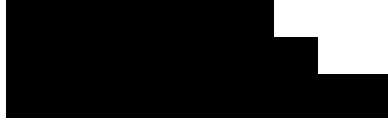




GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: October 28, 2019  
MOAHR Docket No.: 19-008833  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 2, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Mary Strand.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (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 is an ongoing Medical Assistance (MA) recipient.
2. On June 18, 2019, the Department received Petitioner's completed Redetermination (DHS-1010). Exhibit A, pp 4-11.
3. Petitioner reported on her June 18, 2019, Redetermination (DHS-1010) form that she is the caretaker of a minor child and that she does not intent to file a federal tax return. Exhibit A, p 6.
4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,457. Exhibit A, p 12.
5. Petitioner's child receives monthly child support in the gross monthly amount of \$885. Exhibit A, p 13.

6. Petitioner's child receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$364. Exhibit A, p 14.
7. On July 31, 2019, the Department notified Petitioner that she was eligible for Medical Assistance (MA) with a \$673 monthly deductible as of September 1, 2019. Exhibit A, pp 19-21.
8. On August 8, 2019, the Department received Petitioner's request for a hearing protesting the level of Medical Assistance (MA) benefits she is eligible for. Exhibit A, pp 2-3.

### **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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

The size of the household for categories of MA benefits related to Modified Adjusted Gross Income (MAGI) is determined by the principles of tax dependency. The household for a non-tax filer who is not claimed as a tax dependent consists of the individual and the individual's natural children under the age of 19.

Household income is the sum of the Modified Adjusted Gross Income (MAGI) of every individual included in the individual's household where a tax return is expected to be filed whether or not the individual files a tax return. 42 CFR 435.603(d).

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility

for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.<sup>1</sup>

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

The Department counts gross RSDI benefits as unearned income when determining eligibility for MA benefits, and a tax-dependent's RSDI is countable only if that child or tax-dependent is required to file taxes. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (October 1, 2019), pp 29-30.

The income limit for a parent and caretaker is 54% of the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 211 (July 1, 2019), p 1.

Petitioner is not eligible for the Healthy Michigan Plan (HMP), a MAGI related category of MA, because she is eligible for Medicare benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2019), p 1.

Petitioner is a non-tax filer and a caretaker of a child under the age of 19, which makes her a MAGI group of two. Petitioner's child receives child support, which is not counted towards the group's MAGI. Petitioner's child received RSDI greater than \$1,050 in 2018, and Petitioner and her child together receive RSDI in the gross monthly amount of \$1,821. Petitioner's MAGI is over 54% of the federal poverty level and the 5% income disregard does not make her eligible for benefits.

Therefore, Petitioner is not eligible for MA-PCR based on her household income.

Petitioner is not eligible for "full Medicaid" under the MA-ADCARE category because her gross monthly income exceeds the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

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<sup>1</sup> Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf)

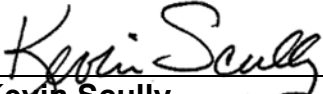
A review of Petitioner's case reveals that the Department budgeted correct amount of income received by Petitioner. Petitioner's "protected income level" is \$408, and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. The Department's determination that Petitioner has a \$673 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

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 determined Petitioner's eligibility for Medical Assistance (MA) and placed her in the most beneficial category available.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**Kevin Scully**  
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**

Renee Swiercz  
51111 Woodward Ave 5th Floor  
Pontiac, MI 48342

Oakland County (District 4), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

[REDACTED]