



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], MI [REDACTED]

Date Mailed: October 10, 2019
MOAHR Docket No.: 19-008990
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 October 2, 2019, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Joann Carpenter, Eligibility Specialist. Also present was Arabic interpreter, Nariana Kakish.

ISSUE

Did the Department properly close Petitioner's and Petitioner's wife's Medical Assistance (MA) benefit cases?

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 and Petitioner's wife were ongoing MA recipients under the Healthy Michigan Plan (HMP) program.
2. On August 6, 2019, Petitioner returned a Wage Match Client Notice showing his wife's income from employment (Exhibit A, pp. 17-19).
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance in the gross monthly amount of \$838 (Exhibit A, pp. 8-10).

4. On July 31, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his and his wife's MA benefit cases were closing effective August 1, 2019, ongoing (Exhibit A, pp. 1-6).
5. On August 27, 2019, 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 and his wife were ongoing MA recipients under the HMP category. The Department received income verification for Petitioner's wife's income from employment. As a result, the Department redetermined Petitioner's and Petitioner's wife's income eligibility under the HMP program.

The Department concluded that Petitioner and his wife were not eligible for HMP because the household income exceeded the applicable income limit for their group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if their 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. In this case, Petitioner and his wife were married and did not claim any dependents. Therefore, for HMP purposes, Petitioner and his wife have a household size of two. BEM 211 (January 2016), pp. 1-2.

133% of the annual FPL in 2019 for a household with two members is \$22,490.30. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of two is \$1,874.19. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$22,490.30 annually or \$1,874.19 monthly. 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

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 presented the State Online Query (SOLQ) for Petitioner's husband's RSDI benefits. The document shows that Petitioner's monthly gross RSDI amount is \$838. Per policy, the entire amount is countable. The Department also presented the Wage Match Client Notice showing Petitioner's wife is paid on a weekly basis in the amount of \$400. The Department testified that it multiplied Petitioner's wife's weekly income amount of \$400 by a 4.3 multiplier to obtain a standard monthly amount of \$1,732. The Department erred when it used the multiplier, as that policy does not pertain to MA benefit cases. BEM 505 (October 2017), pp. 7-9. However, the error was harmless, as Petitioner and Petitioner's wife's income still exceed the income limit under the HMP program. Petitioner's wife's monthly income is \$1,600. Petitioner's wife does not have any deductions for health insurance premiums, retirement savings or dependent care. Petitioner's wife's income of \$1,600 combined with Petitioner's \$838 RSDI benefit amount results in a household income of \$2,438 per month. Therefore, the Department acted in accordance with policy when it determined Petitioner and his wife exceeded the income limit under the HMP program. Petitioner's wife does not qualify for any other MA programs. As such, the Department acted in accordance with policy when it closed Petitioner's wife's MA benefit case.

As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through the disability-related (SSI-related) MA benefit programs. Petitioner submitted verification of a joint checking account between himself and his wife with a balance of \$822.46 (Exhibit A, p. 15). However, asset detection showed that Petitioner and his wife had a second checking account with a balance of \$3,301.26 (Exhibit A, p. 14). The Department determined that Petitioner exceeded the asset limit for the SSI-related MA programs.

Assets must be considered when determining eligibility under SSI-related program. BEM 400 (April 2018), p. 1. The Department considers cash, investments, retirement

plans, and trusts. BEM 400, p. 1. Cash assets includes funds in a checking account. BEM 400, p. 15. For cash assets, the Department does not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 22. An asset group includes the individual and the individual's spouse. BEM 211 (January 2016), p. 8. The asset limit under all SSI-related MA programs for a group size of two is \$3,000. BEM 400, p. 7.

The Department testified that between the two checking accounts, Petitioner's assets totaled \$4,123.72. The Department did not reduce the figure by any current income. The Department stated that because Petitioner's and Petitioner's wife's assets exceeded the income limit under all SSI-related MA programs, Petitioner was not eligible for MA benefits. Petitioner's wife testified that her and her husband's income are deposited into one of the checking accounts.

Per policy, funds treated as income by a program are not included as an asset for the same month for the same program. Petitioner's and Petitioner's wife's income would be considered during an eligibility assessment for all of the SSI-related MA programs, and therefore, should have been deducted from the asset amount. The Department failed to reduce the total asset amount by Petitioner and Petitioner's wife's current income. Therefore, the Department did not follow policy when it closed Petitioner's MA benefit case.

DECISION AND ORDER

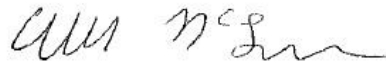
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's wife's MA benefit case. The Department did not act in accordance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

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's wife's MA benefit case and **REVERSED IN PART** with respect to Petitioner's MA benefit case.

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 [REDACTED], 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide him with coverage he 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-Macomb-36-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED], MI [REDACTED]

**Petitioner –
Via First-Class Mail:**

[REDACTED], MI [REDACTED]