



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: October 18, 2019  
MOAHR Docket No.: 19-010051  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 16, 2019, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Stacey Zwicker, Eligibility Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 28-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

### **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 her daughter are MA recipients.
2. Petitioner has a household size of two, which includes Petitioner and her daughter. Petitioner's daughter is [REDACTED] years old. Petitioner has a son who lives independently and supports himself.
3. Petitioner's household income is composed of employment income of \$ [REDACTED] per month and child support of \$ [REDACTED] per month.
4. On July 23, 2019, the Department issued a health care coverage determination notice which notified Petitioner that (a) her daughter was eligible for full-coverage MA through the MICHild program effective August 1, 2019, and (b) Petitioner was

not eligible for MA effective September 1, 2019. Petitioner's daughter previously had full-coverage MA through the Healthy Kids (OHK) program, and Petitioner previously had MA coverage through the Healthy Michigan Plan.

5. On September 16, 2019, Petitioner filed a hearing request to dispute the Department's decision.

### **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.

### **PETITIONER'S MA ELIGIBILITY**

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (January 1, 2019), p. 1. However, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (July 1, 2017), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. BEM 500, p. 5.

The household size is determined based on tax filer and tax dependent rules. BEM 211 (February 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. BEM 211, p. 1-2. Here, Petitioner has a household size of two because she has one tax dependent. Petitioner's son is not a tax dependent because he lives independently and supports himself (he also makes too much money to be claimed as a tax dependent).

The FPL for a household size of two in 2019 is \$16,910, so 133% of the FPL is \$22,490.30, and 133% with a 5% disregard is \$23,335.80. Thus, the income limit for Petitioner to be eligible for health care coverage under the Healthy Michigan Plan is \$23,335.80. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137 (January 1, 2019), p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax

exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. Here, Petitioner's household income was composed of her employment income of \$[REDACTED] per month and child support of \$[REDACTED] per month, which equals an annualized income of \$[REDACTED]

Since Petitioner's income is less than the income limit for coverage under the Healthy Michigan Plan, Petitioner was eligible for full-coverage MA through the Healthy Michigan Plan. The Department did not act in accordance with its policies and the applicable law because it did not find Petitioner eligible for full-coverage MA through the Healthy Michigan Plan.

### **PETITIONER'S DAUGHTER'S MA ELIGIBILITY**

Petitioner's daughter had been receiving full-coverage MA through the Healthy Kids (OHK) program before the Department determined that the most beneficial MA that Petitioner's daughter was eligible for was MICHild. MA coverage through OHK is more beneficial than MA coverage through MICHild because MICHild has a premium whereas OHK does not. Petitioner is asserting that her daughter should have been eligible for MA coverage through OHK.

In order to be eligible for MA through OHK, the household income must be between 54% and 143% of the FPL. BEM 131 (June 1, 2015), p. 1. As discussed above, Petitioner's annual household income was \$[REDACTED]. This household income is equal to 132% of the FPL. Since Petitioner's household income was between 54% and 143% of the FPL, Petitioner's daughter was eligible for MA coverage through OHK. The Department did not act in accordance with its policies and the applicable law because it did not find Petitioner's daughter eligible for full-coverage MA through OHK.

**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 its policies and the applicable law because it did not properly determine Petitioner's and Petitioner's daughter's MA eligibility.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.



JK/ml

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**Jeffrey Kemm**  
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**

Chelsea McCune  
27690 Van Dyke  
Warren, MI  
48093

MDHHS Macomb-District 20 – Via  
Electronic Mail

BSC4 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED]  
MI