



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: December 12, 2019
MOAHR Docket No.: 19-011685
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 December 9, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) failed to appear for the hearing.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case, effective November 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 from the Department under the full-coverage Healthy Michigan Plan (HMP).
2. Petitioner lives in a household that includes herself and her [REDACTED]-year old daughter, who is Petitioner's tax dependent.
3. All of the income for Petitioner's household comes from Petitioner's employment. Petitioner works approximately 32 hours per week at an hourly rate of pay of \$[REDACTED].

4. On [REDACTED], 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective [REDACTED], 2019 based on the Department's conclusion that Petitioner's income exceeded the limit for program eligibility.
5. 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 challenged the closure of her MA benefits case under the full-coverage HMP. According to the notice informing Petitioner of the closure, the Department's action was based on the Department's conclusion that Petitioner's income exceeded the limit for program eligibility. Petitioner testified during the hearing that she worked approximately 32 hours per week at a rate of pay of \$[REDACTED] per hour. Petitioner's household consists of herself and her [REDACTED]-year old daughter, who is Petitioner's tax dependent.

Petitioner is under age 65, 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's household size is two. BEM 211 (July 2019), p. 1.

133% of the 2019 annual FPL for a household with two members is \$22,490.30. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$22,490.30. This figure breaks down a monthly income threshold of \$1,874.19.¹ However, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2. 5% of the FPL for a two-person

¹ \$22,490.30 divided by twelve.

group is \$845.50, bringing the total annual income threshold to \$23,335.80. This figure breaks down to a monthly income threshold of \$1,944.65.²

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 new applicants for MAGI related MA, financial eligibility is determined based 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 predicable decreases in income. *Id.*

Based on the evidence presented during the hearing, Petitioner's income totals \$ [REDACTED] per week.³ Petitioner was paid every week. Thus, during a normal month, Petitioner was expected to make \$ [REDACTED], well below the monthly threshold. However, if Petitioner's weekly earnings were annualized by multiplying by 52 weeks, Petitioner's annual income would amount to \$ [REDACTED], which is above the 133% threshold for program eligibility. However, by operation of the 5% disregard, which slightly increases the threshold, Petitioner is still income eligible as her annualized income falls below that higher threshold by about \$ [REDACTED]. As Petitioner's income did not exceed the limit for program eligibility, the Department erred in closing Petitioner's MA case.

This decision was based solely on the evidence presented at the hearing by Petitioner, which was found to be credible. The Department had an opportunity to present its own position regarding Petitioner's income but chose to neither appear nor request an adjournment.

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 case, effective [REDACTED], 2019.

² \$23,335.80 divided by twelve.

³ \$ [REDACTED] per hour worked multiplied by 32 hours per week.

DECISION AND ORDER

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. Reinstate Petitioner's MA benefits case under the HMP;
2. If the Department believes that an eligibility-related factor is unclear, inconsistent, incomplete, or contradictory, seek verifications pursuant to Department policy;
3. Refrain from taking negative action to suspend, reduce, or terminate Petitioner's MA benefits under the HMP without first providing timely notice of the intended action;
4. If Petitioner is eligible for additional benefits that were not provided, ensure that a prompt supplement is issued; and
5. Notify Petitioner in writing of its decisions.

JM/tm



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

DHHS

Susan Noel
26355 Michigan Ave
Inkster, MI
48141

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: ME—D. Smith; EQADHShearings
AP Specialist-Wayne County