



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 18, 2019  
MOAHR Docket No.: 19-011820  
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 11, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

**ISSUE**

Did the Department properly close the Medicaid (MA) benefits of Petitioner and Petitioner's wife, [REDACTED], 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 lives in a household with his wife and two children, both of whom are Petitioner's dependents.
2. In October 2019, one of Petitioner's children aged out of the MA program in which she was enrolled, causing the Department to rerun eligibility for the household. Exhibit A, pp. 9-13.
3. Upon rerunning eligibility, the Department issued to Petitioner an [REDACTED], 2019 Health Care Coverage Determination Notice informing Petitioner that the MA

benefits for Petitioner and Petitioner's wife, [REDACTED] were closing, effective [REDACTED], 2019. Exhibit A, pp. 5-8.

4. 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 objected to the Department's closure of the MA benefits case of Petitioner and his wife, [REDACTED], effective [REDACTED] 2019. Prior to the change, they were both receiving full-coverage MA under the HMP. Upon their child turning 19, the Department removed that child and the other child from the group, thereby reducing the household number from four to two. Upon rerunning eligibility, it was found that the household income exceeded the limit for a household of two, so the Department issued the [REDACTED] 2019 Health Care Coverage Determination Notice informing Petitioner of the impending closure on [REDACTED] 2019. The notice informed Petitioner that he had until October 31, 2019 to request a hearing in order to ensure that the coverage stayed active during the pendency of the appeal. Petitioner submitted his hearing request on [REDACTED], 2019, resulting in the pending of the closure of the MA benefits case.

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 and his wife are both under age 65, not disabled, and not enrolled in Medicare. Thus, they are 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, the parties agree and the facts dictate that Petitioner's household size is four.

133% of the 2019 annual FPL for a household with four members is \$34,248. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$34,248. This figure breaks down a monthly income threshold of \$2,854.<sup>1</sup> 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 four-person group is \$1,288, bringing the total annual income threshold to \$35,536. This figure breaks down to a monthly income threshold of \$2,962.<sup>2</sup>

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](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 predicible decreases in income. *Id.*

The Department determined the MA eligibility of Petitioner and Petitioner's wife based on its finding that the total annual household income was [REDACTED]. Additionally, the Department found that Petitioner's household size was only two people. Thus, according to the Department, the household income rendered them ineligible for HMP because the income exceeded the threshold for eligibility for a group of two.

The Department was correct that based on its income determinations and budgeting, Petitioner was not eligible for HMP coverage for a household of two. However, that conclusion was based on a faulty premise. Petitioner's household size was four as it included Petitioner, his wife, and their two children, who were both Petitioner's tax dependents. Properly applying law and Department policy results in a finding that Petitioner and his wife are income eligible for HMP as their total annual income is below the threshold for eligibility for a group of four.

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<sup>1</sup> \$ [REDACTED] divided by twelve.

<sup>2</sup> \$ [REDACTED] divided by twelve.

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 the MA benefits of Petitioner and his wife, [REDACTED], effective [REDACTED] 2019.

**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 the MA benefits of Petitioner and his wife, [REDACTED], back to the date of closure;
2. If coverage was not provided that should have been, ensure that appropriate supplements or payments are made;
3. Notify Petitioner in writing of its decisions.

JM/tm

  
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**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**

Kathleen Verdoni  
411 East Genesee  
PO Box 5070  
Saginaw, MI  
48607

**Petitioner**

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

cc: ME—D. Smith; EQADHShearings  
Saginaw County AP Specialist (2)