



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: January 8, 2020  
MOAHR Docket No.: 19-012501  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 19, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Crystal Simmons, ES Worker and Kamia McLaughlin, Supervisor.

### **ISSUE**

Did the Department properly process Petitioner's Medical Assistance (MA) application?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2019, Petitioner applied for MA with the Department.
2. Petitioner's spouse is a truck driver.
3. Petitioner verified that her spouse's employment is through [REDACTED] an LLC which Petitioner's spouse is the "Organizer" and owner, pursuant to the LARA Articles of Organization filed with the state.
4. On November 13, 2019, the Department issued an approval, effective October 1, 2019, with a \$2,553 deductible and November 1, 2019, with a \$3602 deductible, emergency services only.
5. On [REDACTED] 2019, Petitioner filed a hearing request.

## **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.

Applicable policy and procedure to the case herein is found generally in the BEM and BAM policy manuals.

Here, Petitioner argues that she should be eligible to have the LCC classified as self-employment under the MA budgeting policy. The Department argues that per BEM 502, page 1, federal and state law does not allow an LLC to be classified as self-employment and thus, self-employed deductions are not permitted. The Department noted that initially, due to its error, it miscounted the employment verifications as net income, triggering a lower deductible for October 2019. When corrected as required by policy, counting the gross income resulted in a higher deductible, beginning November 2019.

As a beneficiary or applicant for welfare benefits, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner. However, in beneficiary administrative hearings, the Department has the burden of going forward.

Here, the Department met its burden of going forward by pointing out the policy requiring that the Department count gross income, without self-employment deductions, due to the LCC.

Having met its burden, Petitioner then has the burden of proof to establish eligibility. Petitioner argued that, her spouse's job is as a self-contractor. However, Petitioner offered no law or policy that recognized a personal reclassification of an LCC as binding on the Department.

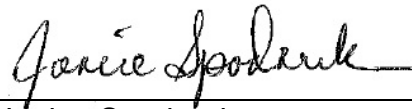
Petitioner next argued that once they discovered that the LCC would trigger counting gross instead of net income, she and her spouse have subsequently changed the legal entity and/or payment to a self-contractor. Here, the purview of an Administrative Law Judge is to review the evidence and information the Department had at the time it took its

action. Thus, Petitioner's subsequent reorganization is irrelevant to the issue in this administrative hearing - the November 13, 2019 Health Determination Notice. 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 issued the November 13, 2019 health care action and thus, the Department's action is upheld.

Petitioner understands that she may submit new documentation/verification, showing any changes that may affect budgeting in the future.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.



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Janice Spodarek  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

JS/ml

**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**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI 49507

Kent (District 1) County DHHS – Via  
Electronic Mail

BSC3 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

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