



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 10, 2020  
MOAHR Docket No.: 19-012593  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 19, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services was represented by Kimberly Polasek and Brooke Bradshaw.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Medical Assistance (MA) eligibility for Petitioner's household?

### **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 receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 19.
2. Petitioner's spouse receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 20.
3. Petitioner's spouse is eligible for Medicare.
4. On [REDACTED] [REDACTED] [REDACTED] the Department received a statement of income and expenses showing self-employment income with gross receipts of \$ [REDACTED] for the period of January 1, 2019, through September 30, 2019. Exhibit A, p 21.
5. On November 5, 2019, the Department notified Petitioner that his spouse was eligible for Medical Assistance (MA) for October and November of 2019 with a

\$1,440 monthly deductible, and that she was not eligible as of December 1, 2019, because she had requested that her benefits be closed. Exhibit A, pp 9-10.

6. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the Department's determination of his household's eligibility for himself and his spouse. Exhibit A, pp 4-6.

### **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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who are 19-64 years of age and do not qualify for or are not enrolled in Medicare. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2020), p 1.

Petitioner's spouse is not eligible for MA benefits under the HMP category because she is eligible for Medicare benefits.

The MA-ADCARE is an SSI-related Group 1 category of MA that provides full health care coverage for individuals if their income does not exceed the federal poverty level. Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), p 1.

Petitioner and her spouse received social security benefits that exceed the federal poverty level, and Petitioner's spouse does not qualify for MA-ADCARE benefits.

The Department determined eligibility for Petitioner's spouse under the MA-G2S category, which resulted in a \$1,440 monthly deductible. Petitioner then voluntarily

withdrew from the MA-G2S category and the Department closed her MA benefits effective December 1, 2019, because she is not eligible under any other category.

Petitioner is not eligible for MA benefits under the MA-G2S category because he is not considered to be disabled, and because he is less than 65 years of age.

The Department then determined Petitioner's eligibility for MA under the MA-HMP category, and is required to consider the self-employment income he reported.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides childcare in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2019), p 1.

On [REDACTED] [REDACTED] the Department received a copy of a statement showing self-employment income and expenses. This statement could potentially be sufficient verification of income and expenses for the purposes of determining eligibility for the MA-G2S category of MA, but it is not sufficient verification for the purposes of determining eligibility for the MA-HMP category.

Eligibility for MA-HMP benefits is determined from the client's Modified Adjusted Gross Income (MAGI), and BEM 502 requires verification of self-employment income to be provided from a federal income tax return, or a Schedule C tax form. Department policy in BEM 502 indicates that a self-employment statement is not acceptable verification for the purposes of determining MAGI for MA-HMP benefits. BEM 402, pp 8-9.

Petitioner has the burden of establishing his eligibility for MA benefits and the only category he is potentially eligible for is MA-HMP, if he meets the financial criteria of that program. Petitioner is part of a household of two, and both his income and his spouse's income are countable towards his eligibility for MA benefits. The social security benefits of Petitioner and his spouse amounts to 119% of the federal poverty level.

In addition to the social security benefits, Petitioner receives self-employment income. Petitioner provided insufficient verification of that self-employment income for the purposes of determining his MAGI as directed by BEM 502, but based on the household's social security benefits, self-employment income of more than \$191 per month would cause Petitioner's MAGI to exceed the income limit for MA-HMP benefits.

Petitioner testified that he recently changed his accounting software and he has been unable to produce an accurate statement of his self-employment income and expenses.


However, Petitioner's inability to produce an accurate Schedule C tax form does not relieve him of the burden of establishing his eligibility for Medicaid. The financial statement Petitioner provided to the Department supports a finding that his MAGI exceeds 133% of the federal poverty level for a household of two, and makes him ineligible for MA-HMP benefits.

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 determined the level of eligibility for Medical Assistance (MA) for Petitioner and his spouse.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**Kevin Scully**  
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**

Rose Ward  
1018 Newell  
PO Box 640  
White Cloud, MI 49349

Newaygo County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]