



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 14, 2020
MOAHR Docket No.: 19-012624
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 8, 2020 from Detroit, Michigan. The Petitioner was self-represented and had her niece, [REDACTED] appear as a witness. The Department of Health and Human Services (Department) was represented by Rena Yagham, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program benefits?

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 had been an ongoing MA Healthy Michigan Plan (HMP) recipient.
2. On [REDACTED] 2019, the Department received Petitioner's completed Redetermination on which Respondent indicated she was employed with [REDACTED] (Employer) and had a new address on [REDACTED] Street.
3. On the same day, Petitioner submitted paystubs from employment with gross wages of \$ [REDACTED] on August 30, 2019 and \$ [REDACTED] on September 23, 2019.
4. On October 1, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner notifying her that she was ineligible

for MA coverage effective November 1, 2019 because she was not under age 21, not over age 65, not pregnant, not a parent or caretaker of someone under age 19, not in foster care at age 18, has excess income for the HMP, and is not disabled.

5. On October 29, 2019, Petitioner turned age [REDACTED]; at the hearing, the parties inaccurately testified that Petitioner turned age [REDACTED] in 2019.
6. On November 18, 2019, the Department received Petitioner's request for hearing disputing the denial of her MA benefits.

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 disputes the Department's closure of MA benefits. The Department closed Petitioner's MA benefits because her updated income placed her over the Healthy Michigan Plan (HMP) income limit. The Department also listed as a reason for a denial that she was not over age 65. Petitioner does not dispute any other reasons for her denial except her income and age. Therefore, the programs applicable to these eligibility factors are evaluated below.

HMP 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; MPM, Healthy Michigan Plan, § 1.1.

To determine whether Petitioner is eligible for HMP, there must first be a determination of her group size for MAGI purposes. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (July 2019), pp. 1-2. Petitioner is not married and has no dependents. Therefore, the Department properly placed Petitioner in a group size of one. 133% of the FPL for a group size of one is \$16,611.70 as of

January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70 for a group size of one or \$1,384.30 per month.

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), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. *Id.* Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes for health coverage, childcare, or retirement savings. *Id.* This figure is multiplied by the number of paychecks the client expects during the year to estimate income for the entire year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.*

Petitioner had wages of \$ [REDACTED] and \$ [REDACTED] which were considered in her Redetermination of eligibility. Her paystubs show that she does not have any deductions for employer costs, or childcare; however, Petitioner has a deduction on each check for vision health insurance premiums and her 401K retirement plan. Therefore, her wages for purposes of determining HMP eligibility are \$ [REDACTED] and \$ [REDACTED]. Thus, Petitioner's total MAGI income for the period under review is \$ [REDACTED]. The Department calculated a wage of \$ [REDACTED] but the evidence is unclear as to how the Department arrived at that number. In any case, the figure is incorrect and Petitioner's MAGI income is less than the HMP income limit for a group size of one.

Turning to the second issue of eligibility, Petitioner disputes the Department's closure of her benefits because she is now age [REDACTED]. Petitioner's birthday is [REDACTED]. Therefore, Petitioner does not turn age [REDACTED] until [REDACTED] 2020. At the time of the effectiveness of the Department's decision, Petitioner was age [REDACTED]. The Ad-Care and Group 2-Aged, Blind, Disabled programs require program participants to be age 65 or older. BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p. 1; BEM 240 (October 2017), p. 3. Therefore, the Department properly denied eligibility based upon Petitioner's age for these programs.

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 HMP benefit.

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. Redetermine Petitioner's MA eligibility effective November 1, 2019;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cg



Amanda M. T. Marler
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

Via Email:

MDHHS-Macomb-20-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

