



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 17, 2020
MOAHR Docket No.: 19-012652
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 13, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Nicole Carey, Assistance Payments Supervisor, and Brandon Freeman, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) Program benefits due to excess income?

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, the Department received Petitioner's Application for MA benefits.
2. On November 6, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner notifying her that she was not eligible for MA benefits because she was not under age 21, not pregnant, had countable income exceeding the income limit for parents and caretakers, had excess income for the Healthy Michigan Plan (HMP), was not a parent/caretaker of a minor child in the home, not aged 65 or older, not blind nor disabled.
3. At the hearing, all parties agreed that Petitioner was pregnant at the time of Application.

4. On [REDACTED] 2019, Petitioner provided paystubs showing she had gross pay of \$1,289.60 for pay date August 2, 2019; \$1,415.43 for pay date August 16, 2019; and \$1,754.15 for pay date August 30, 2019.
5. On November 25, 2019, the Department received Petitioner's request for hearing disputing the denial of her MA Application and noting that she meets the income standards and is pregnant.

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 denial of her MA Application. At the hearing, the Department testified that Petitioner's Application was denied due to excess income for the Pregnant Women category of MA benefits. However, the HCCDN indicates that Petitioner was not considered for this category because she was not pregnant. It also indicates that she had excess income for the parent/caretaker category, was not under age 21, not over age 64, not blind, not disabled, and had excess income for HMP.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. 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.

The Pregnant Women (PW) MA category is a Modified Adjusted Gross Income (MAGI)-related MA category. BEM 125 (July 2016), p. 1. It is offered to women who are pregnant, the month that the pregnancy ends, and the two calendar months following the pregnancy regardless of the reason it ended. BEM 125, p. 1. PW does not have an asset test but has an income limit of 195% of the federal poverty level (FPL) for the group size. 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. Based upon the evidence presented, Petitioner has a group size of three which includes herself and her two dependent children. The FPL for a group size of three in 2019 was \$21,330.00; therefore, the PW income limit is \$41,583.50 annually or \$3,466.12 per month.

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 the following gross wages: \$1,289.60 for pay date August 2, 2019; \$1,415.43 for pay date August 16, 2019; and \$1,754.15 for pay date August 30, 2019. No evidence was presented of any health care coverage premiums or retirement savings. Petitioner testified that she had a childcare expense, but it was not deducted from her paychecks and varied week to week based upon her work schedule. She was unable to identify a specific amount that she pays for child care services. Therefore, based upon the evidence presented, Petitioner's MAGI for August 2019 was \$4,459.18 which is significantly greater than the PW income limit.

An exception exists to the income limit rule if an individual's group income is within 5% of the FPL for the applicable group size, a disregard is applied in order to make the person eligible for MA. MREM, § 7.2. After consideration of the 5% disregard, the income limit is \$42,660.00 or \$13,555.00 per month. Petitioner's income is still greater than the income

limit even after the 5% disregard. Therefore, she is not eligible for PW MA coverage. It is notable that Petitioner received three paystubs in the month of August due to the way her pay periods fell on the calendar, it is possible that she may be eligible in a different calendar month when only two paychecks are received. However, because MAGI cases require evaluation of income in the month of Application and Petitioner had three paychecks in August, she did not meet the income requirement at the time of Application.

PW has the second highest income limit. HMP, another MAGI MA category, has an income limit of 133% of FPL. Since Petitioner's income was greater than the PW income limit, she is also not eligible for HMP.

LIF, yet another MAGI MA category, is available to individuals who are either a parent/caretaker relative (PCR) of dependent children or a child under age 19 (U19). BEM 110 (April 2018), p. 1. Its income limit is 54% of FPL which equates to \$11,518.20 or \$12,584.70 when the 5% disregard is applied. Again, Petitioner's income exceeds the LIF income limit.

Since Petitioner is not eligible for any of the group 1 MA categories, the full coverage MA categories, the Department should have evaluated Petitioner's eligibility for the Group 2-Caregiver Relatives (G2C). Group 2 categories allow an individual to obtain eligibility for MA benefits after consideration of incurred medical expenses. BEM105 (April 2017), p. 1. Group 2 categories are considered a limited benefit MA category because a deductible is created by the excess income over the net income limit. *Id.* Since the Department failed to consider Petitioner's eligibility for G2C, the Department has not met its burden of proof in establishing that Petitioner is not eligible for MA 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's Application for MA benefits.

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. Reprocess Petitioner's Application dated [REDACTED] 2019;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.



AMTM/jaf

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

DHHS

Richard Latimore
MDHHS-Wayne-57-Hearings
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Petitioner

