



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: January 21, 2020  
MOAHR Docket No.: 19-012685  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 9, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Tyra Leslie, Eligibility Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

### **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 was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
2. On October 29, 2019, Petitioner submitted a New Hire Client Notice with pay statements for his income from employment (Exhibit A, pp. 13-19).
3. On November 13, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that his MA benefit case was closing effective December 1, 2019, ongoing.
4. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing the Department's actions.

## **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 was an ongoing MA recipient under the HMP MA program. On October 29, 2019, Petitioner submitted verification of his earned income from employment. On November 13, 2019, the Department sent Petitioner notice that his MA benefit case was closing effective December 1, 2019, ongoing.

The Department concluded that Petitioner was not eligible for HMP because his household income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if their household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner was not married and did not have any dependents. Therefore, for HMP purposes, Petitioner had a household size of one. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2019 for a household with one member is \$17,236.20. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$1,436.35. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$17,236.20 annually or \$1,436.35 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, 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. 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 out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

[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)

The Department presented pay statements showing that Petitioner was paid on September 11, 2019, in the gross amount of \$494; on September 18, 2019, in the gross amount of \$507; on October 2, 2019, in the gross amount of \$513.50; on October 9, 2019, in the gross amount of \$559; and on October 16, 2019, in the gross amount of \$520. Petitioner's income during the four weeks prior to eligibility review was \$2,099.50, which exceeds the income limit for a group size of one under the HMP program. As a result, the Department closed Petitioner's MA benefit case.

At the hearing Petitioner testified that his employment is seasonal. Petitioner stated that his employer does not operate from early May to early September. Petitioner stated he collects unemployment during the summer months and receives significantly less income during that time period.

The State MA Plan states that Michigan has elected to account for a reasonably predictable decrease in future income and/or family size. Specifically, the State MA Plan states, "if an applicant is aware of a reasonably predictable decrease in income (i.e. a seasonal worker) they can fill out the projected annual income field on Michigan's application. Additionally, a beneficiary that experiences any changes in their income or family size can report it to the Department at any time to have his change taken into account. The Department attempts to electronically verify any income reported on an application or through the change process in accordance with the State's verification plan. If verification cannot be completed electronically, paper verification from the applicant/beneficiary is requested." See:

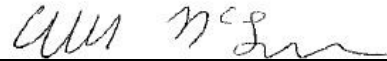
[https://www.michigan.gov/documents/mdhhs/MAGI-Based\\_Income\\_Methodologies\\_SPA\\_17-0100\\_-\\_Submission\\_615009\\_7.pdf](https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf)

Although Petitioner reported that he is a seasonal worker at the hearing, Petitioner did not provide that information to the Department. On the New Hire Client Notice, Petitioner checked that his employment is “regular,” as opposed to “seasonal.” Therefore, the Department acted accordingly based on the information that was provided by Petitioner. Thus, the Department acted in accordance with policy when it closed Petitioner’s MA benefit case.

**DECISION AND ORDER**

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 closed Petitioner’s MA benefit case. Accordingly, the Department’s decision is **AFFIRMED**.

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**Ellen McLemore**

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:**

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