



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 14, 2020
MOAHR Docket No.: 19-012841
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 appeared and represented herself. The Department of Health and Human Services (Department) was represented by Carvin Wright, Eligibility Specialist, and Candace Baker, Family Independence Manager. During the hearing, a 36-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-36.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case, effective January 1, 2020?

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 recipient of MA benefits under the full-coverage Healthy Michigan Program (HMP).
2. On October 11, 2019, Petitioner reported a change in her income to the Department. Exhibit A, pp. 7-8.
3. Along with the change report, she provided paycheck stubs from her new employment with [REDACTED]. Each of those paychecks covered a two-week period. Exhibit A, pp. 13-16.

4. On November 13, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective December 1, 2019, as a result of the Department's determination that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 17-20.
5. Shortly thereafter, Petitioner contacted the Department and informed them that they miscalculated her income. The Department reactivated Petitioner's MA benefits and requested additional information.
6. On [REDACTED] 2019, Petitioner submitted to the Department a Request for Hearing objecting to the Department's November 13, 2019 Health Care Coverage Determination Notice.
7. On December 2, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective January 1, 2020, as a result of the Department's determination that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 21-24.

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 objected to the Department's closure of her MA benefits, effective December 1, 2019, which was subsequently changed to January 1, 2020. Prior to the change, Petitioner was receiving full-coverage MA under the HMP. Upon rerunning eligibility after Petitioner submitted a change report and documentation concerning new income and employment, it was found that the household income exceeded the limit for a household of one, so the Department issued the November 13, 2019 Health Care Coverage Determination Notice informing Petitioner of the impending closure on December 1, 2019. After Petitioner provided additional documentation concerning her income, the Department pended the closure and reran eligibility. The end result of that action was that Petitioner was still found to be income ineligible for MA under the HMP, but the closure date was moved to January 1, 2020.

HMP is a MAGI-related MA category that 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.

Petitioner is under age 65, not disabled, and not enrolled in Medicare. Thus, she is potentially eligible for MA under the HMP if the household's income does not exceed 133% of the FPL applicable to the individual's group size. In this case, the facts dictate that Petitioner's household size is one.

133% of the 2019 annual FPL for a household with one member is \$16,611.70. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$16,611.70. This figure breaks down a monthly income threshold of \$1,384.31.¹ However, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2. 5% of the FPL for a one-person group is \$624.50, bringing the total annual income threshold to \$17,236.20. This figure breaks down to a monthly income threshold of \$1,436.35.²

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), pp. 3-4. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, financial eligibility is determined based on current monthly income and family size. https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf. However, in determining current monthly income, the Department must account for reasonably predictable decreases in income. *Id.*

The four paycheck stubs Petitioner presented to the Department each cover two weeks-worth of wages. On September 27, 2019, Petitioner received gross pay of \$[REDACTED]. On October 11, 2019, Petitioner received gross pay of \$[REDACTED]. On October 25, 2019, Petitioner received gross pay of \$[REDACTED]. On November 8, 2019, Petitioner received gross pay of \$[REDACTED].

Petitioner's eligibility for MA benefits should have been determined based off her current income. The most current 30-day period of income the Department had access to showed that Petitioner's gross income over that time period totaled \$[REDACTED]. That figure is below the threshold for program eligibility. Thus, the Department's

¹ \$[REDACTED] divided by twelve.

² \$[REDACTED] divided by twelve.

determination that Petitioner's income exceeded the limit for program eligibility must be reversed.

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 benefits case, effective January 1, 2020.

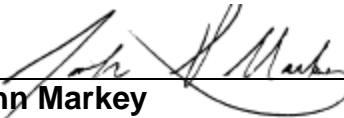
DECISION AND ORDER

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. Reinstate Petitioner's MA benefits case under the HMP back to the date of closure;
2. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is issued;
3. Determine Petitioner's MA eligibility going forward pursuant to Department policies, including those requiring timely notice;
4. If there are any eligibility-related factors that are unclear, inconsistent, contradictory, or incomplete, seek verification pursuant to Department policy; and
5. Notify Petitioner in writing of its decisions.

JM/tlf



John Markey
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-Washtenaw-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
MOAHR

Petitioner – Via First-Class Mail:

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