



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: February 11, 2020  
MOAHR Docket No.: 19-013588  
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 February 6, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Patricia Lemon, Assistance Payments Worker.

### **ISSUE**

Did the Department properly deny Petitioner's Application for 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. On [REDACTED], 2019, the Department received Petitioner's Application for MA benefits listing income from employment at \$400.00 per week with an income statement showing her earnings from August 12 through November 24 although no year is specified.
2. On December 13, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her MA Application had been denied effective January 1, 2020 because she was not under age 21, over age 65, blind, disabled, a caretaker of a minor child in her home, and had excess income for Healthy Michigan Plan (HMP).

3. On December 27, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of her MA Application.

### **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 MA benefits based upon excess income. 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 (January 2020), 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 2020), p. 1; Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 1.2.

At the time of Application, Petitioner was age 23. Her Application gave no indication that she was pregnant; however, Petitioner noted that she has a disability or a physical/mental/emotional health condition. Since Petitioner is not under 21 or over 64, nor is she pregnant, or blind, Petitioner does not qualify for any of programs listed above involving these eligibility factors. If Petitioner is eligible for benefits, she may qualify for MA under HMP as she meets all non-financial eligibility factors. In addition, since Petitioner identified a potential disability on her Application for benefits, she may be eligible for disability related MA benefits; however, the Department presented no evidence that Petitioner's disability status was ever evaluated.

HMP requires a determination of group size under the MAGI methodology with consideration of the client's tax status and dependents. BEM 211 (July 2019), p. 1. The household for a tax filer, who is not claimed as a tax dependent includes the

individual, their spouse, and tax dependents. *Id.* Therefore, Petitioner's MA group size is one as no evidence was presented that Petitioner is married or claims any dependents. 133% of the FPL for a group size of one is \$16,611.70 as of January 11, 2019. U.S. Department of Health and Human Services Office of the Assistance Secretary for Planning and Evaluation, *2019 Poverty Guidelines* < <https://aspe.hhs.gov/2019-poverty-guidelines>> (accessed February 10, 2020). Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70 for a group size of one or \$1,384.31 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. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. 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. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/>> (accessed February 10, 2020). AGI is found on IRS Tax Form 1040 at line 7, Form 1040 EZ at line 4, and Form 1040A at line 21. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/adjusted-gross-income-agi/>> (accessed February 10, 2020). 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, child care, or retirement savings. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/income-and-household-information/how-to-report/>> (accessed February 10, 2020). 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's Application was submitted on November 25, 2019; therefore, to evaluate her income, the most recent 30 days of income prior to Petitioner's Application should be considered, from October 26, 2019 through November 25, 2019. During this period, Petitioner's earnings were as follows: \$345.84, \$529.34, \$508.99, \$269.85, and \$225.44. Based upon the wages presented, Petitioner's total earnings were \$1,910.46. No evidence was presented that Petitioner was responsible for health insurance premiums, childcare, or contributions to retirement accounts. Therefore, Petitioner's currently monthly MAGI is greater than the HMP income limit.

Since the Department failed to present evidence that it evaluated Petitioner's disability status, the Department has not met its burden of proof that it properly determined Petitioner's MA eligibility.

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 determined Petitioner's MA eligibility.

**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. Determine Petitioner's eligibility for MA benefits based upon a disability;
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**

Chelsea McCune  
MDHHS-Macomb-20-Hearings  
BSC4  
D Smith  
EQAD

**Petitioner**

[REDACTED]  
MI