



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: July 21, 2020  
MOAHR Docket No.: 20-003828  
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 July 8, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by LaShona Callen, Assistance Payments Supervisor.

**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 February 7, 2020, the Department sent Petitioner a Wage Match Client Notice.
3. On February 28, 2020, Petitioner submitted verification of her income (Exhibit A, pp. 6-9).
4. Petitioner had unearned income in the form of child support (Exhibit A, pp. 12-13).
5. Petitioner's household consisted of herself and her two minor children.
6. On March 11, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective April 1, 2020, ongoing (Exhibit A, pp. 15-18).

7. On [REDACTED] 2020, 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 program. On February 7, 2020, the Department sent Petitioner a Wage Match Client Notice requesting verification of her earned income. On February 28, 2020, Petitioner submitted verification of her earned income. As a result, the Department redetermined Petitioner's MA eligibility.

The Department concluded that Petitioner was not eligible for MA benefits under the HMP program because her household income exceeded the applicable income limit for her 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 filed taxes and claimed her two minor children. Therefore, for HMP purposes, she has a household size of three. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2020 for a household with three members is \$29,973.60. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of three is \$2,497.80. Therefore, to be income eligible for HMP, Petitioner's and

Petitioner's wife's income cannot exceed \$29,973.60 annually or \$2,497.80 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 the employment verification submitted by February 28, 2020 (Exhibit A, pp. 8-9). Petitioner was paid on January 31, 2020, in the gross amount of \$[REDACTED] and on February 14, 2020, in the gross amount of \$[REDACTED]. Petitioner did not have any withholdings for insurance or retirement savings. Therefore, Petitioner's MAGI based income was \$[REDACTED]. Petitioner also had unearned income in the form of child support. However, Petitioner's earned income alone placed her over the income limit for her group size under the HMP program. Therefore, the Department acted in accordance with policy when it determined Petitioner was not eligible for MA benefits under the HMP program.

Persons may qualify under more than one MA category. BEM 105 (April 2017), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2. Therefore, Petitioner's eligibility under other MA programs should be assessed.

The Department testified that because Petitioner is a caretaker of dependent children in her home, she is eligible for MA coverage under the Group 2-Caretaker (G2C) MA category. The Department stated Petitioner was not eligible for MA benefits under the G2C program due to excess income.

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. Income eligibility exists under G2C when net income does not exceed the Group 1 needs in BEM 544. BEM 135 (October 2015), p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible under BEM 545. BEM 135, p. 2. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1.

It is unclear why the Department determined Petitioner was not eligible for MA under the G2C program. Even if Petitioner's net income exceeded the Group 2 needs, she would still be eligible for MA benefits subject to a deductible. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case.

### **DECISION AND ORDER**

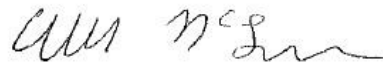
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

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 as of April 1, 2020, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

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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

**DHHS**

Linda Gooden  
25620 W. 8 Mile Rd  
Southfield, MI  
48033

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: ME—D. Smith; EQADHShearings  
Oakland County AP Specialist