



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: August 3, 2020
MOAHR Docket No.: 20-004176
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 (ALJ) 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 27, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator. During the hearing, a 17-page packet of documents was offered and admitted into evidence as Exhibit A.

Additional documents were submitted by the Department after the record had been closed. Those documents were not reviewed and are not in evidence. To the extent that the submission constituted a motion to supplement the record, that motion is hereby denied.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective April 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. On March 25, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was approved for Transitional Medicaid (TMA) from May 1, 2019 through March 31, 2020. Exhibit A.

2. On February 26, 2020, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits were being switched to a plan that imposed a monthly deductible of \$516, effective April 1, 2020. Exhibit A.
3. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the determination of her MA eligibility, effective April 1, 2020.

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 change of Petitioner's MA benefits from the full-coverage TMA to the less favorable Group 2 Caretaker (G2C) program subject to a \$516 monthly deductible, effective April 1, 2020. The Department had found that Petitioner's household income exceeded the Healthy Michigan Plan (HMP) limit for her household size, so the Department issued the February 26, 2020 Health Care Coverage Determination Notice informing Petitioner of the impending change to the deductible plan.

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 2020), 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 on the record dictate that Petitioner's household size is three.

133% of the 2020 annual FPL for a household with three members is \$21,720. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$28,887.60. This figure breaks down a monthly income threshold of \$2,407.30.¹ 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 three-person group is \$1,086, bringing the total annual income threshold to \$29,973.60. This figure breaks down to a monthly income threshold of \$2,497.80.²

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 Department budgeted Petitioner's income from employment at \$██████████ per month. During the hearing, Petitioner testified that she also received \$██████ per month in child support for one of her dependents. No other countable income was taken into consideration in determining Petitioner's eligibility for HMP benefits. Thus, Petitioner's countable income was \$██████████ per month. Given that the evidence on the record shows that Petitioner's group size for MA eligibility was three, her monthly income of \$██████████ put her below the income threshold. However, as the Department noted during the hearing, Petitioner was found income ineligible for HMP benefits. Thus, the Department's 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 determined Petitioner's eligibility for MA benefits, effective April 1, 2020.

¹ \$28,887.60 divided by twelve.

² \$29,973.60 divided by twelve.

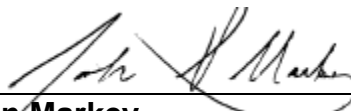
DECISION AND ORDER

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 TMA back to April 1, 2020 and continue to provide the same until such time as the Department can properly analyze Petitioner's ongoing eligibility for MA benefits, including potentially under the HMP, and properly notify Petitioner of any prospective case actions, negative or positive;
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/tm



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

DHHS

Elisa Daly
411 East Genesee
PO Box 5070
Saginaw, MI 48607

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: ME—D. Smith; EQADHShearings
Saginaw County AP Specialist (2)