



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.: 20-004190
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 July 29, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearings Coordinator. During the hearing, a 22-page packet of documents was offered and admitted into evidence as Exhibit A.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2020 application for Medicaid (MA) 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. While in the hospital on [REDACTED], 2020, a patient advocate completed an application for MA benefits on Petitioner's behalf and submitted the same to the Department. The application stated that Petitioner's income came from self-employment and that his "monthly income (before expenses)" was \$[REDACTED] and that his "monthly expenses" were \$1,250. Exhibit A.
2. On March 9, 2020, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his application for MA benefits was denied as a result of the Department's finding that Petitioner's income exceeded the limit for program eligibility. Exhibit A.

3. On [REDACTED], 2020, the Department received Petitioner's request for hearing objecting to the Department's March 9, 2020 Health Care Coverage Determination Notice.

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 March 9, 2020 denial of his [REDACTED] 2020 application for MA benefits. The Department determined that Petitioner's annual income totaled \$[REDACTED], which is above the limit for Healthy Michigan Plan (HMP) eligibility for Petitioner's one-person group. In calculating Petitioner's annual income, the Department multiplied by twelve Petitioner's stated monthly business income before expenses of \$1,500 without taking into consideration that Petitioner's stated monthly business expenses totaled \$1,250. Petitioner argues that the Department should have only considered the net monthly business income of \$[REDACTED] in determining his eligibility, which would have resulted in Petitioner being under the limit.

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, he 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 parties agree and the facts dictate that Petitioner's household size is one.

133% of the 2020 annual FPL for a household with one member is \$16,970.80. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$16,970.80. This figure breaks

down a monthly income threshold of \$1,414.23.¹ 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 \$638.00, bringing the total annual income threshold to \$17,608.80. This figure breaks down to a monthly income threshold of \$1,467.40.²

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 new applicants for 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 only information provided to the Department regarding Petitioner's income situation was that he had \$[REDACTED] in monthly income and \$1,250 in monthly expenses associated with his LLC. Without asking for any further information or clarification, the Department concluded that Petitioner had annual income of \$[REDACTED] and denied Petitioner's application for excess income. It is found that the Department's action is not supported by the preponderance of the evidence. Rather, the evidence shows that Petitioner's income was derived entirely from a business that had net income of \$[REDACTED] per month on \$[REDACTED] in monthly revenue. How that business could then turn around and pay Petitioner a \$[REDACTED] monthly wage is left unexplained. Based on the evidence presented, the Department failed to establish that Petitioner's income exceeded the limit for program 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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2020 application for MA benefits.

¹ \$16,970.80 divided by twelve.

² \$17,608.80 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. Reprocess Petitioner's [REDACTED], 2020 application for MA benefits;
2. If any eligibility-related factors need clarification, follow Department policy concerning verifications
3. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued;
4. 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

Dawn Tromontine
41227 Mound Rd.
Sterling Heights, MI 48314

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: ME—D. Smith; EQADHShearings
Macomb County AP Specialist (4)