



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: August 13, 2020  
MOAHR Docket No.: 20-004636  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 12, 2020. Petitioner, [REDACTED], had his Authorized Hearing Representative, [REDACTED] appear on his behalf. Respondent, Department of Health and Human Services (Department), had Melisa Johnstone, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 66-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medical Assistance (MA), effective December 1, 2019?

### **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's date of birth is [REDACTED] 1991.
2. Petitioner does not live with a spouse or any dependents.
3. On [REDACTED], 2020, Petitioner applied for MA from the Department. Petitioner's application included a request for retroactive coverage for December 2019.

4. In Petitioner's application, Petitioner asserted that his employment at [REDACTED] ended on December 5, 2019, and he began new employment at [REDACTED] on December 19, 2019.
5. On January 21, 2020, the Department mailed a supplemental questionnaire to Petitioner to obtain additional information about his employment at [REDACTED]. The Department instructed Petitioner to respond by January 31, 2020.
6. On January 23, 2020, the Department mailed a verification checklist to obtain proof of Petitioner's wages from his employment at [REDACTED]. The Department instructed Petitioner to respond by February 3, 2020.
7. On January 28, 2020, Petitioner completed the supplemental questionnaire and reported that he was receiving [REDACTED] per hour, working 40 hours per week, and getting paid biweekly.
8. The Department calculated Petitioner's annual income based on the information Petitioner provided about his employment at [REDACTED] and the Department determined that Petitioner had an annual income of [REDACTED].
9. Based on Petitioner's annual income, the Department determined that Petitioner was not eligible for MA.
10. On January 30, 2020, the Department mailed a Health Care Coverage Determination Notice to Petitioner to notify him that he was not eligible for MA, effective December 1, 2019.
11. On February 6, 2020, [REDACTED] provided Petitioner's wage information. [REDACTED] reported that Petitioner was receiving [REDACTED] per hour. Petitioner received a paycheck on January 2, 2020, for [REDACTED]; Petitioner received a paycheck on January 16, 2020, for [REDACTED], and Petitioner received a paycheck on January 30, 2020, for [REDACTED].
12. On April 29, 2020, Petitioner requested a hearing to dispute the Department's decision.

### **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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner applied for MA on [REDACTED], 2020, and requested retroactive coverage for December 2019. The Department denied Petitioner's request for MA, and Petitioner disputes the denial. Petitioner asserts that the Department did not properly budget his income, specifically for December 2019.

Full-coverage MA is available through the Healthy Michigan Plan for individuals aged 19 to 64 who have no other health insurance and meet the program's income requirements. BEM 137 (January 1, 2019), p. 1. The income requirement is that income must be at or below 133% of the Federal Poverty Level (FPL). *Id.*

The Department must determine an applicant's eligibility based on income. BEM 530 (July 1, 2017), p. 1. The Department must start its budget with the oldest month that MA is being sought for. *Id.* When the oldest month is a month prior to the month of the application, the Department must use actual income received for that month. *Id.* at 2. In this case, Petitioner requested retroactive coverage for the month prior to his application, and Petitioner presented sufficient evidence to establish that the Department did not use his actual income for the month prior to his application when it determined his eligibility.

The Department used prospective income from Petitioner's new employment at [REDACTED] when the Department determined his eligibility for MA for December 2019. This was not the correct income to use because December 2019 was a past month and actual income should have been available for the Department to use to determine Petitioner's eligibility. Based on the information provided by [REDACTED] (after the Department made its determination), [REDACTED] did not issue any paychecks to Petitioner in December 2019. However, Petitioner was employed by another employer, [REDACTED], prior to [REDACTED] and Petitioner may have received paycheck(s) from that employer in December 2019.

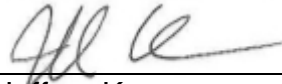
The Department's determination is reversed. The Department shall reevaluate Petitioner's eligibility for MA for December 2019 in accordance with this decision.

### **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 its policies and the applicable law when it determined that Petitioner was ineligible for Medical Assistance (MA), effective December 1, 2019.

IT IS ORDERED the Department's decision is REVERSED. The Department shall begin to implement this decision within 10 days.

JK/ml



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Jeffrey Kemm  
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**

Tamara Little  
Jackson County DHHS – Via Electronic  
Mail

BSC4 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED], MI [REDACTED]

**Authorized Hearing Rep.**

[REDACTED] – Via First Class Mail  
[REDACTED] MI [REDACTED]