



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], MI [REDACTED]

Date Mailed: September 30, 2020  
MOAHR Docket No.: 20-[REDACTED]  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 September 23, 2020. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Mary Acker, Eligibility Specialist, and Joe Kulpa, Family independence Manager.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-30.

### **ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA)?

### **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], 2020, Petitioner applied for MA retroactive to March 2020. (Exhibit A, pp. 7-11)
2. Petitioner reported a household size of two, Petitioner and his spouse. (Exhibit A, p. 8)
3. Petitioner reported his spouse is employed, working an average of 40 hours per week and earning [REDACTED] per hour. (Exhibit A, p. 10)
4. Petitioner reported receiving unemployment compensation benefits of \$813.00 every 2 weeks. (Exhibit A, p. 10)

5. A Consolidated Income Inquiry showed Petitioner's unemployment benefits were actually, \$813.00 per week (comprised of \$213.00 in gross benefits and \$600.00 pandemic benefits) starting the week ending April 25, 2020 and continued in July 2020. (Exhibit pp. 12-14)
6. The Department verified Petitioner's wife's income with a report from The Work Number. (Exhibit A, pp. 15-20)
7. On July 8, 2020, a Health Care Coverage Determination Notice was issued to Petitioner denying MA because his income is higher than the allowable amount for a group size of 2. (Exhibit A, pp. 22-25)
8. On August 3, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 4-6)
9. On August 12, 2020, a Benefit notice was issued to clarify the denial reason. (Exhibit A, pp. 27-30)

### **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.

The Medicaid program comprise several sub-programs or categories. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2020, p. 1.

Petitioner was only potentially eligible for the Healthy Michigan Plan (MA-HMP) program. For example, based on the information reported on the application, Petitioner

was not under age 19, aged, blind, disabled, pregnant, or a parent or caretaker relative a dependent child. (Exhibit A, pp. 7-11 and 22-23)

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, June 1, 2020, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2020, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

An individual and their spouse are part of the same household. BEM 211, July 1, 2019, p. 2. The Department counts gross wages as earned income. BEM 501, January 1, 2020, p. 6.

Generally, the Department counts the gross amount of unemployment benefits as unearned income. For MAGI, unemployment benefits are treated as a reasonably predictable change in income and are budgeted for the time period received. BEM 503, July 1, 2020, p. 38. For MA, regular unemployment benefits are countable, but the \$600.00 pandemic unemployment benefit is excluded. MDHHS ESA 2020-24 Memorandum, April 17, 2020.

The 2020 FPL for the 48 contiguous states and the District of Columbia for a group size of two is an annual income of \$17,240.00. 85 FR 3060, pp. 3060-3061. Accordingly, 133% of FPL is \$22,929.20 for a group size of two. This would equate to a monthly income limit of \$1,910.77.

On [REDACTED], 2020, Petitioner applied for MA retroactive to March 2020. (Exhibit A, pp. 7-11) Petitioner reported a household size of two, Petitioner and his spouse. (Exhibit A, p. 8) Petitioner reported his spouse is employed working an average of 40 hours per week and earning [REDACTED] per hour. (Exhibit A, p. 10) Petitioner reported receiving unemployment compensation benefits of \$813.00 every 2 weeks. (Exhibit A, p. 10)

However, a Consolidated Income Inquiry showed Petitioner's unemployment benefits were actually \$813.00 per week (comprised of \$213.00 in gross benefits and \$600.00 pandemic benefits) starting the week ending April 25, 2020 and continued in July 2020.

(Exhibit pp. 12-14) Only the \$213.00 per week was countable, for a total of \$852.00 in June 2020.

The Department also verified Petitioner's wife's income with a report from The Work Number. In June 2020, Petitioner's wife had four pay dates with gross earnings of \$██████ \$██████ \$██████ and \$██████ (Exhibit A, pp. 15-20) Accordingly, Petitioner's wife's total gross earnings in June 2020 were \$██████

Petitioner's household's countable income in June 2020 was \$██████ This exceeds the monthly equivalent of the 133% of FPL for a group size of two, \$1,910.77.

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 acted in accordance with Department policy when it denied Petitioner's application for Medical Assistance (MA).

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

CL/ml



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Colleen Lack  
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**

Kimberly Kornoelje  
Kent County DHHS – via electronic mail

BSC3 – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

**Petitioner**

██████████ – via first class mail  
██████████  
██████████, MI ██████████