



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 19, 2021
MOAHR Docket No.: 21-000634
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On January 28, 2021, Petitioner, [REDACTED], requested a hearing to dispute the Department's decision to find Petitioner and his spouse, [REDACTED], ineligible for Medical Assistance (MA). As a result, a hearing was scheduled to be held on March 18, 2021, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner and his spouse appeared at the hearing. Respondent, Department of Health and Human Services (Department), had Tammy Schmaltz, Eligibility Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 86-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly found Petitioner and his spouse ineligible for 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. Petitioner and his spouse applied for health insurance through the marketplace, and they were denied because their income was too low. The marketplace advised Petitioner that his household income was \$16,887.00. The marketplace instructed Petitioner and his spouse to apply for MA.
2. On [REDACTED] 2020, Petitioner and his spouse applied for MA.
3. Petitioner had a household size of two, Petitioner received income from employment at [REDACTED], Petitioner received underemployment

income from unemployment for the weeks he qualified, and Petitioner's spouse received unemployment income. Petitioner and his spouse did not have anyone in the household who was pregnant, disabled, or caring for a minor child.

4. The Department obtained Petitioner's household income through Petitioner's employer and the Unemployment Insurance Agency.
5. Petitioner's employer reported that Petitioner was paid \$864.96 on December 3, 2020, \$586.69 on December 17, 2020, and 446.68 on December 31, 2020.
6. The Unemployment Insurance Agency reported that Petitioner was paid \$5.42 on December 12, 2020, and \$0.00 on December 26, 2020.
7. The Unemployment Insurance Agency reported that Petitioner's spouse was paid \$724.00 on December 12, 2020, and \$724.00 on December 26, 2020.
8. The Department budgeted Petitioner's household income based on the information it obtained for Petitioner and his spouse, and the Department determined that Petitioner's household income was \$38,160.00 per year.
9. The Department determined that Petitioner's household income of \$38,160.00 per year exceeded the program limit, so the Department found Petitioner and his spouse ineligible for MA.
10. On January 20, 2021, the Department issued a notice of case action to notify Petitioner that he and his spouse were ineligible for MA.
11. On January 28, 2021, Petitioner requested a hearing.

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.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the

individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (June 1, 2020), p. 1. However, a 5% disregard is available to make those individuals eligible who would otherwise not be eligible. BEM 500 (July 1, 2020), p. 5. The 5% disregard increases the income limit by an amount equal to 5% of the FPL for the group size. *Id.* at 5.

The household size is determined based on tax filer and tax dependent rules. BEM 211 (July 1, 2019), p. 1. For tax filers, the household size includes the tax filer, the tax filer's spouse, and all dependents claimed. *Id.* at 1-2. Here, Petitioner has a household size of two because Petitioner is married and lives with his spouse.

The FPL for a household size of two in 2020 was \$17,240.00, so 133% of the FPL is \$22,929.20, and 133% with a 5% disregard is \$23,791.20. Thus, the income limit for Petitioner to be eligible for health care coverage under the Healthy Michigan Plan was \$23,791.20 per year. Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137 (June 1, 2020), p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. Here, Petitioner's household income was composed of Petitioner's earned income, Petitioner's unemployment, and Petitioner's spouse's unemployment.

Petitioner's earned income varies based on the number of hours he works. When income varies, the Department must use past income to prospect income for the future, unless changes are expected. BEM 500, p. 6. Since Petitioner was paid biweekly, and the average gross biweekly income he received in December 2020 was \$632.78, his annualized earned income was \$16,452.28.

Petitioner and his spouse also received unemployment income. The gross amount of unemployment income is countable for MA. BEM 503 (January 1, 2021), p. 38. Petitioner's average biweekly unemployment payment was \$2.71 in December 2020, and Petitioner's spouse's average biweekly unemployment payment was \$724.00 in December 2020. Thus, Petitioner and his spouse had an annualized unemployment income of \$18,894.46. This excludes pandemic unemployment benefits that may be payable.

Since Petitioner and his spouse had annualized earned income of \$16,452.28 and annualized unemployment income of \$18,894.46, Petitioner's total household income was \$35,346.74. Petitioner's total household income of \$35,346.74 exceeded the program limit of \$23,791.20, so the Department properly found Petitioner and his spouse ineligible for health care coverage under the Healthy Michigan Plan.


Although the Department has other programs which also provide MA, there was no evidence presented that Petitioner or his spouse would have met the requirements of any of those programs to be eligible for MA because Petitioner and his spouse did not have anyone in the household who was pregnant, disabled, or caring for a minor child.

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 acted in accordance with its policies and the applicable law when it found Petitioner and his spouse ineligible for MA.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/cc



Jeffrey Kemm

Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Tuscola-Hearings
BSC2-HearingDecisions
EQADHearings
C. George
MOAHR

Petitioner- Via USPS:

