



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: August 25, 2021  
MOAHR Docket No.: 21-002350  
Agency No.: 131339989  
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 June 10, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Brad Reno, Hearing Facilitator and Eligibility Specialist (HF/ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility 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], 2021, the Department received an application for MA for Petitioner from the Federally Facilitated Marketplace. The application indicated a tax group of two, Petitioner and her husband. MA was requested for Petitioner only. It was reported that Petitioner is not pregnant or a caretaker of a minor child. Petitioner claimed a disability. Petitioner requested assistance with unpaid medical expenses from the three months prior to the month of application, [REDACTED] 2020, [REDACTED] 2020, and [REDACTED] 2021. The household income was reported as [REDACTED] per week. (Exhibit A, pp. 7-16)

2. On [REDACTED], 2021, the MA application was automatically processed resulting in approval of Healthy Michigan Plan MA (MA-HMP) for Petitioner effective February 1, 2021. A Health Care Coverage Determination Notice was issued to Petitioner. (Exhibit A, pp. 3 and 17-19)
3. On March 15, 2021, it was noted that the retroactive coverage had not been certified due to a needed ex parte review. A supervisor was consulted. (Exhibit A, p. 21)
4. The Supervisor indicated the local office could not do anything to certify MA-HMP for Petitioner and that an approval letter had been sent February 1, 2021. (Exhibit A, p. 21)
5. On March 15, 2021, a Quick Note was issued to Petitioner stating MA could not be certified from [REDACTED] and it should be denied for April as well. However, the Department is not allowed to close out or deny any MA at this time and will have to wait for the restriction to be lifted from COVID. (Exhibit A, p. 22)
6. The Department determined that the approval of Petitioner's [REDACTED] 2021 application was in error because Petitioner's household's income exceeded the income limit for MA-HMP. However, Executive Orders in response to the COVID-19 pandemic remain in effect that prohibit the agency from closing open MA. Therefore, ongoing MA-HMP will remain open until the Executive Order is rescinded. Petitioner was also advised the verification of household income was needed to determine eligibility for retro MA as that is considered a separate request. (Exhibit A, pp. 3-4 and 21)
7. On April 27, 2021, the Department received paycheck stubs for Petitioner's husband. (Exhibit A, pp. 23-30)
8. The Department determined that Petitioner was not eligible for MA-HMP for the months of [REDACTED] 2020, [REDACTED] 2020, and [REDACTED] 2021 due to income in excess of the applicable limit for MA-HMP. (Exhibit A, pp. 4 and 31-32)
9. On April 29, 2021, a Health Care Coverage Determination Notice was issued to Petitioner denying MA for [REDACTED] 1, 2020 through [REDACTED] 31, 2021. (Exhibit A, pp. 33-36)
10. On May 10, 2021, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 6)

### **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.

MA-HMP is a Modified Adjusted Gross Income (MAGI)-related MA Category. BEM 105, January 1, 2020, pp. 1 and 3. Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). BEM 137, June 1, 2020, p. 4.

MA eligibility is determined on a calendar month basis. BEM 105, January 1, 2020, p. 2.

Retro MA coverage is available back to the first day of the third calendar month prior to a current application for MA. A person might be eligible for one, two or all three retro months, even if not currently eligible. The DHS-3243, Retroactive Medicaid Application, is used to apply for retro MA. Only one DHS-3243 is needed to apply for one, two or all three retro MA months. Eligibility must be made for each of the three retro months. BAM 115, July 1, 2020, pp. 12-13

The Department properly determined Petitioner's eligibility for retroactive MA separately from the current and ongoing request for MA. As indicated in the above Department policies, MA eligibility is determined separately for each month, including requests for retro MA months. Based on the paycheck stubs, Petitioner's household's income exceeded the income limit for MA-HMP for [REDACTED] 2020, [REDACTED] 2020, and [REDACTED] 2021.

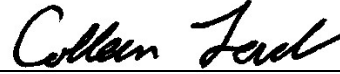
Petitioner also asserted that she is eligible for the retroactive MA coverage based on her cancer diagnosis. However, this ALJ has not found any Department or federal policy to support that Petitioner was automatically eligible based on her cancer diagnosis. This Administrative Law Judge is limited to reviewing the Department's determination under the existing policies and cannot change or make exceptions to the Department policy. The Department properly considered Petitioner's household's income when determining her eligibility for retroactive MA pursuant to the BAM and BEM policies.

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 determined Petitioner's eligibility for MA.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



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**Colleen Lack**  
Administrative Law Judge

**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 Electronic Mail**

MDHHS-Genesee-UnionSt-Hearings  
BSC2  
C. George  
EQAD  
MOAHR

**Petitioner**

[REDACTED]  
[REDACTED]  
MI [REDACTED]