



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: July 2, 2021  
MOAHR Docket No.: 21-002352  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 hearing was held via teleconference. Petitioner appeared and represented himself. The Michigan Department of Health and Human Services (Department) was represented by LeCole Lockhart, Eligibility Specialist, and Brenda Watson, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly deny Petitioner's ██████████ 2021 application for Medicaid (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 ██████████ 2021, Petitioner applied for MA.
2. Petitioner is not blind, disabled, over age ██████████ or the caretaker of minor children.
3. Petitioner is a tax filer with no dependents.
4. Petitioner's sole income at the time of application was \$██████████ in weekly unemployment benefits paid biweekly. Petitioner anticipated this income to continue for only 26 weeks. Petitioner also received \$██████████ in weekly Pandemic Unemployment Income (PUI).
5. On April 27, 2021, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was not eligible for Medicaid.

## **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 is available to individuals under SSI-related MA categories for individuals who are disabled, blind or aged (over 65) or under Modified Adjusted Gross Income (MAGI)-related categories for children under 19, parents and caretakers of minor children, pregnant women, and individuals who meet the financial and nonfinancial eligibility criteria for HMP. BEM 105 (January 2021), p. 1. At the hearing, Petitioner confirmed that he was not blind, disabled, over age 65, pregnant, or the parent of minor children. His application shows that he is not under age 19, and there was no evidence that he was a Medicare recipient. Thus, based on the information available to the Department at the time it processed the MA application, Petitioner was potentially eligible for MA under only HMP. BEM 137 (June 2020), p. 1.

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 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, p. 1. An individual is income eligible for HMP if his household's income does not exceed 133% of the federal poverty level (FPL) applicable to the individual's group size. BEM 137, pp. 1, 4.

In determining the applicable income limit, the individual's group size must be determined. An individual's group size for MAGI purposes requires consideration of the client's tax filing status or, if not a tax filer, the individual's household. 42 CFR 435.603(f)(1). If the individual is not claimed as a tax dependent and expects to file a tax return for the taxable year in which an eligibility determination is made, the household consists of the taxpayer and all persons the individual expects to claim as a tax dependent. 42 CFR 435.603(f)(1). If the individual does not file taxes, an individual's group consists of the individual and, if living with the individual, the spouse and children up to age 21, if full-time students. 42 CFR 435.603(f)(3). Here, Petitioner confirmed that

he was a tax filer and did not claim any dependents. Accordingly, his group size for MA purposes is one.

For a one-person group, the annual income limit for HMP eligibility in 2021 is \$17,130.40, which is 133% of the federal poverty level for a one-person MAGI household. [2021 Poverty Guidelines | ASPE \(hhs.gov\)](#). The Department explained that it determined that Petitioner was not income eligible for HMP because his monthly unemployment income exceeded the monthly HMP limit, which would be \$1,427.53. Petitioner argued that his monthly unemployment benefits were anticipated to continue for only 26 weeks, resulting in annual income of \$█████ (Exhibit 1), well below the \$17,130.40 annual income limit for HMP eligibility. The Department responded that it considered Petitioner's monthly income and determined that, based on the monthly income he received during the month of application, Petitioner was not income eligible for HMP.

Consistent with the Department's testimony, effective November 1, 2017, the State Medicaid Plan provides that, when determining eligibility for ongoing recipients of MAGI-related MA, financial eligibility for new applicants is based on current monthly income and family size. However, in determining current monthly household income, the State must consider predictable changes in income, including decreases in future income, allowing applicants who are aware of a reasonably predictable decrease in income (i.e., a seasonal worker) to fill out the projected annual income field on the application. [MAGI-Based Income Methodologies \(SPA 17-0100\) Approved \(michigan.gov\)](#). BEM 503 (April 2021), p. 38, confirms that "unemployment benefits should be treated as a reasonably predictable change in income" and provides that such benefits should "only be budgeted for the time period received." The Centers for Medicare and Medicaid Services (CMS) provide guidance in the manner that a State can consider reasonably predicable income changes. See <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/2019.counting%2520census%2520income%2520presentation.2.pdf> and <https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/household-composition-and-income-training.pdf>.

Here, Petitioner reported in his application that his only income was biweekly payments of \$█████ in unemployment benefits (Exhibit A, p. 9). Although Petitioner did not report any month-to-month income change in his application or identify any "total estimated income this year," inserting "not applicable" (Exhibit A, p. 9), the Department ran a consolidated inquiry that, through a cross-match with the Michigan Unemployment Insurance Agency (UIA) database, confirmed that Petitioner received \$█████ biweekly in UIA benefits and made the Department aware that, as of the April 27, 2021 date the inquiry was run, Petitioner had 11 weeks remaining in UIA benefits (Exhibit A, p. 11). Accordingly, the Department was put on notice that Petitioner's unemployment benefits were limited, and he was anticipated to have a reasonably predictable decrease in income. Thus, the Department should have applied "a reasonable methodology" to consider this anticipated decrease in income in determining Petitioner's income eligibility for HMP. The Department did not present any evidence in this case that it did so.

It is further noted that the Department failed to establish that, even if only monthly income at the month of application was considered, Petitioner would be income ineligible for MA under the HMP plan when the 5% disregard was applied. A 5% disregard may be applied to make someone MA eligible and, in this case, raises the applicable FPL limit by an additional 5%. BEM 500 (July 2020), p. 5. This would raise the income limit for HMP eligibility for a one-person household to \$17,774.40 annually, or \$1,481.20 monthly.

Here, Petitioner received \$[REDACTED] biweekly. Although the Department implied that Petitioner's monthly income should take into consideration the extra paycheck received by a client when the client is paid biweekly, the Department policy requiring the conversion of income to a standard monthly amount by multiplying biweekly income by 2.15 is not identified as applicable to MA cases. See BEM 505 (January 2021), pp. 1, 8. Furthermore, although Petitioner received an additional \$600 PUI supplement each week, these additional unemployment benefit supplements are not countable income for MA purposes. See Economic Stability Administration (ESA) Memo 2020-24, dated April 17, 2020; ESA Memo 2020-42, dated September 29, 2020; and ESA Memo 2021-02, dated January 12, 2021; and ESA Memo 2021-06, dated January 29, 2021 and located at [https://insidedhhs-ts.michigan.gov/sites/dhhscollob/FOACash/Shared%20Documents1/Forms/AllItems.aspx?RootFolder=%2Fsites%2Fdhhscollob%2FFOACash%2FShared%20Documents1%2FMemos%2F2020&FolderCTID=0x0120004C6FF2EF2C737440AD50D68E3A31B463&View=%7B73868D20%2D4590%2D43C5%2DA2F7%2D719951FD09FA%7D#InplviewH\\_ash73868d20-4590-43c5-a2f7-719951fd09fa=RootFolder%3D%252Fsites%252Fdhhscollob%252FFOACash%252FShared%2520Documents1%252FMemos](https://insidedhhs-ts.michigan.gov/sites/dhhscollob/FOACash/Shared%20Documents1/Forms/AllItems.aspx?RootFolder=%2Fsites%2Fdhhscollob%2FFOACash%2FShared%20Documents1%2FMemos%2F2020&FolderCTID=0x0120004C6FF2EF2C737440AD50D68E3A31B463&View=%7B73868D20%2D4590%2D43C5%2DA2F7%2D719951FD09FA%7D#InplviewH_ash73868d20-4590-43c5-a2f7-719951fd09fa=RootFolder%3D%252Fsites%252Fdhhscollob%252FFOACash%252FShared%2520Documents1%252FMemos). Thus, Petitioner's monthly income totaled \$[REDACTED]. Because this total was less than the \$1,481.20 monthly income limit for HMP eligibility when the 5% disregard is applied, the Department failed to establish that Petitioner was not income eligible for HMP even if the reasonably predictable change in Petitioner's income was not considered.

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 MA application.

### **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. Reinstate and reprocess Petitioner's [REDACTED] 2021 MA application;

2. Provide Petitioner with MA coverage he is eligible to receive from April 1, 2021 ongoing; and
3. Notify Petitioner in writing of its decision.



AE/jm

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**Alice C. Elkin**  
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 Email:**

MDHHS-Wayne-76-Hearings  
C. George  
EQADhearings  
BSC4-HearingDecisions  
MOAHR

**Petitioner - Via First-Class Mail:**

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