



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: March 9, 2022
MOAHR Docket No.: 21-006242
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 February 17, 2022. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Theresa Ware, Family Independence Manager (FIM); and Emily Sziede, Eligibility Specialist (ES).

During the hearing proceeding, the Department's hearing Summary packet was admitted as Exhibit A, pp. 1-16.

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 September 29, 2019, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was approved for Freedom to Work (FTW) MA with an estimated \$0.00 premium amount, in part for May 1, 2019 and ongoing. (Exhibit A, pp. 9-11)
2. The FTW MA budget for November 2019 included earned income of [REDACTED] and unearned income of [REDACTED] (Exhibit A, p. 7)

3. On December 14, 2021, a Cost of Living Adjustment (COLA) update automatically processed to reflect increased Retirement, Survivors, and Disability Insurance (RSDI) income for Petitioner. (Exhibit A, p. 2)
4. The FTW MA budget for January 2022 included earned income of [REDACTED] and unearned income of [REDACTED]. There was also a COLA exclusion of [REDACTED] (Exhibit A, p. 8)
5. On December 14, 2021, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was approved for FTW MA with an estimated [REDACTED] premium amount effective January 1, 2022. (Exhibit A, pp. 12-14)
6. On December 22, 2021, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-5)

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.

BEM 174 address income eligibility for FTW MA:

Income Eligibility

Initial and Ongoing Eligibility

Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL

Determine countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. Determine income deductions using BEM 540 (for children) or 541 (for adults). Unemployment compensation benefits are not countable income for FTW.

PREMIUM PAYMENT

There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) income less than 138 percent of the federal poverty level (FPL).

- A premium of 2.5 percent of their income will be charged for an individual with MAGI income between 138 percent of the FPL and \$75,000 annually.
- A premium of 100 percent of the average FTW participant cost will be assessed for an enrolled individual with MAGI income over \$75,000.

Bridges will automatically notify the premium coordinator when premiums for a FTW participant start/change/end. The premium coordinator has final determination over actual premium begin or amount change dates, as well as premium exclusions.

Nonpayment of premium is automatically sent to Bridges and mass update will close the Freedom to Work category.

Note: An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220.

BEM 174, January 1, 2020, p. 3

BEM 503 addresses RSDI income:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers.

Bridges counts the gross benefit amount as unearned income.

Medicaid Only

Note: Countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. For all other months countable RSDI is the gross amount for the month being tested.

BEM 503, April 1, 2021, pp. 29-30

In this case, Petitioner was previously approved for FTW MA with estimated [REDACTED] premium amount. (Exhibit A, pp. 9-11) The FTW MA budget for November 2019 included earned income of [REDACTED] and unearned income of [REDACTED]. (Exhibit A, p. 7)

On December 14, 2021, a COLA update automatically processed to reflect increased RSDI income for Petitioner. (Exhibit A, p. 2) The FTW MA budget for January 2022 included earned income of [REDACTED] and unearned income of [REDACTED]. There was also a COLA exclusion of [REDACTED] (Exhibit A, p. 8) On December 14, 2021, a Health Care Coverage Determination Notice was issued to Petitioner stating Petitioner was approved for FTW MA with an estimated [REDACTED] premium amount effective January 1, 2022. (Exhibit A, pp. 12-14)

Petitioner confirmed that he did not have earned income by the time of the January 2022 budget, and that the RSDI income amount seemed to be the correct gross benefit amount. Petitioner noted that the December 14, 2021, Health Care Coverage Determination Notice did not tell him where or how to pay the FTW premium. (Petitioner Testimony)

The second page of the December 14, 2021 Health Care Coverage Determination Notice indicates that a monthly invoice/statement would be sent to Petitioner with the premium amount and due dates. (Exhibit A, p. 10) Petitioner noted that he had not received any monthly invoices/statements. (Petitioner Testimony) However, the Department explained that due to the COVID 19 pandemic, the premiums were currently being waived. (Department Testimony)

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



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

Electronic Mail Recipients:

MDHHS-Kalamazoo-Hearings
BSC3
C. George
EQAD
MOAHR

First Class Mail Recipient:

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MI [REDACTED]