



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: November 3, 2023
MOAHR Docket No.: 23-006047
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 2, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Latedra Taylor, Assistance Payments Worker; and April Newing, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner’s Medical Assistance (MA) benefit case?

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 was an ongoing MA recipient under the Healthy Michigan Plan (HMP) program.
2. On June █████ 2023, Petitioner completed a redetermination related to her MA benefit case (Exhibit A, pp. 11-17).
3. On August █████ 2023, Petitioner submitted verification of her income from employment (Exhibit A, pp. 20-29).
4. On September █████ 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective October 1, 2023 (Exhibit A, pp. 30-33).

5. On September 14, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner was an ongoing MA recipient under the HMP program. In June 2023, Petitioner completed a redetermination related to her MA benefits. On August [REDACTED] 2023, Petitioner submitted verification of her income. As a result, the Department redetermined Petitioner's MA eligibility.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for his group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is 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, p. 1. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, the Department determined that Petitioner had an MA benefit group of 3, consisting of Petitioner and her two children. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2023 for a household with three members is \$34,306.80. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of three is \$2,858.90. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$34,306.80 annually or \$2,858.90 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on

federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department presented the pay statements submitted by Petitioner (Exhibit A, pp. 12-13). Petitioner was paid on July █ 2023, in the gross amount of \$█ and \$█. On July █ 2023, in the gross amount of \$█ and \$█. On August █ 2023, in the gross amount of \$█ and \$█ and on August █ 2023, in the gross amount of \$█ and \$█. Petitioner did not have any withholdings for insurance or retirement savings. Therefore, Petitioner's current monthly income was a gross total amount of \$█.

At the hearing, Petitioner testified that the reason she was paid twice on each date was because she received a seasonal bonus. Petitioner stated that she only gets the bonus in June, July and August. Petitioner also testified that her income fluctuates throughout the year depending on the season. Petitioner stated that her employer informed her that she had only made \$27,000 year to date.

When calculating MAGI in situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. See: <https://www.healthcare.gov/income-and-household-information/how-to-report/>

When completing her redetermination, Petitioner reported that her income varies significantly (Exhibit A, p. 14). Therefore, the Department was on notice that Petitioner's income fluctuates. Thus, when calculating Petitioner's MAGI-based income, the Department should have considered additional income information, such as potentially excluding the bonus payments, which would place Petitioner under the income limit for

the HMP program. As it follows, the Department failed to establish that it properly followed policy when it closed Petitioner's MA benefit case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefit case.

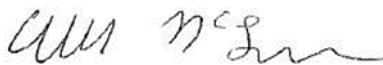
Accordingly, the Department's MA decision is **REVERSED**.

Petitioner's hearing request with respect to Petitioner's FAP benefit case is **DISMISSED**.

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. Redetermine Petitioner's MA benefit eligibility as of October 1, 2023, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with MA coverage she is entitled to receive as of October 1, 2023, ongoing; and
3. Notify Petitioner of its decision in writing.

EM/dm



Ellen McLemore
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 :

DHHS
Yvonne Hill
Oakland County DHHS Madison
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**MDHHS-Oakland-DistrictII-
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EQADhearings

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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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