

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-018865  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: February 04, 2015  
County: DHS SSPC-WEST

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

**HEARING DECISION**

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 4, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED]

**ISSUE**

Did the Department properly determine Claimant's Medical Assistance eligibility on September 22, 2014?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence in the whole record, finds as material fact:

1. On August 14, 2014, a Medical Assistance application was submitted for Claimant to include retroactive coverage for July 2014.
2. Income verifications were requested and received.
3. The Department calculated a \$ [REDACTED] annual income to determine income eligibility.
4. On September 22, 2014, a Health Care Coverage Determination Notice (DHS-1606) was issued stating the Medical Assistance (MA) application was denied because Claimant's income was too high for the HMP program.
5. On December 9, 2014, [REDACTED] filed a request for hearing contesting the Department's action.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

An August 14, 2014, a Verification of Employment (DHS-38) was submitted for Claimant. It shows that he is permanently employed since January 2013, is expected to work 40 hours per week at a rate of \$ [REDACTED] per hour and has health insurance available through his employer but did not enroll. The Department determined the only Medical Assistance category Claimant could be eligible for was the Healthy Michigan Plan (HMP). The Department took the income information provided and calculated an annual income of \$ [REDACTED]. The household income limit applicable to Claimant for HMP is \$ [REDACTED].

Claimant's authorized hearing representative asserts that the Department incorrectly determined Claimant's eligibility because they DID NOT look at his financial eligibility on a monthly basis. The authorized hearing representative asserts that Department policy requires Claimant's Medical Assistance eligibility to be calculated on a monthly basis and that Claimant's monthly income for July 2014 was below the income limit. The argument is based on Bridges Eligibility Manual (BEM) 105 Medicaid Overview, Bridges Administration Manual (BAM) 115 Application Processing and 42 CFR § 435.603(h).

### **BEM 105 DEPARTMENT POLICY MA ONLY**

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

The Medicaid program is comprised of several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!,

and Adult Medical Program is based on **Modified Adjusted Gross Income (MAGI)** methodology.

## **GROUP 1 AND GROUP 2**

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility **for MAGI-related** and SSI-related Group 1 categories.

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories.

## **BEM 110 THROUGH 174**

BEM 110 through 174 describe all of the MA categories and the eligibility factors for each category. BEM 110 through 145 describe **the MAGI-related categories**. BEM 150 is for SSI recipients and certain former SSI recipients. BEM 155 through 174 describe SSI-related categories. EXHIBIT I - LIST OF ALL MA CATEGORIES.

**Note:** Certain non-Medicaid medical programs are described in various BEM 600 series items. Some of these programs are administered by DHS and some are not.

## **MONTHLY DETERMINATIONS**

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise.

BAM 115 page 13 & 14: Standard Retro MA Eligibility Requirements

### **MA Only**

Determine eligibility for **each** retro MA month **separately**.

To be eligible for a retro MA month, the person must:

Meet all financial and nonfinancial eligibility factors in that month, and

Have an unpaid medical expense incurred during the month, or

**Note:** Do **not** consider bills that the person thinks may be paid by insurance as paid bills. It is easier to determine eligibility sooner rather than later.

Have been entitled to Medicare Part A.

**Reminder:** There is **no** asset test for MAGI-related Medicaid categories.

42 CFR § 435.603 (h) *Budget period*—(1) *Applicants and new enrollees*. Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.

The Hearing Facilitator testified that the Department is directed to use the MAGI income eligibility method for determining Healthy Michigan Plan eligibility.

The Delegation of Hearing Authority issued to Michigan Administrative Hearing System specifically states “Administrative hearing officers have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or overrule or make exceptions to Department policy.” While authority above DHS policy is relevant, what is specified in DHS policy is the proper basis for a decision in this case.

Review of DHS policy does not support the Departments’ position in this case. 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 in its burden to show Claimant’s Medical Assistance eligibility determination of September 22, 2014 was done in accordance with Department policy.

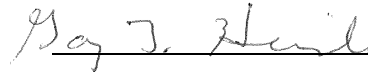
### **DECISION AND ORDER**

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. Re-determine Claimant’s Medical Assistance eligibility for July 2014 ongoing in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.

3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Gary Heisler  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **3/4/2015**

Date Mailed: **3/4/2015**

GFH/hj

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

CC:

