

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

IN THE MATTER OF:

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██████████
████████████████████

Reg. No.: 15-003347
Issue No.: 2001
Case No.: ██████████
Hearing Date: April 29, 2015
County: MACOMB-DISTRICT 20
(WARREN)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and ██████████, who appeared as a witness. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's children's Medical Assistance (MA) due to excess income?

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of Medical Assistance.
2. The Claimant completed a Redetermination (timely) on December 1, 2014. The Claimant listed 7 household members including his wife, ██████████, a full-time college student who was 18 at the time of the redetermination. All children were under 18. Exhibit A.

3. The Claimant, his wife and daughter [REDACTED] all have separate health insurance from Claimant's wife's employment. Exhibit A.
4. [REDACTED] at the time of the redetermination was 18 years of age, a full-time college student and lived out of the home 8 months of year. [REDACTED] was included in the MA group as a tax dependent and was claimed by the Claimant and his spouse on their joint tax return.
5. In the year 2014, Claimant testified that he and his wife were tax filers and he and his wife filed a joint tax return claiming 5 tax dependents. Four of the children seeking Medical Assistance were claimed as tax dependents.
6. The Claimant requested that the Department not use information from tax returns to renew health coverage. Exhibit A.
7. The Department issued a Health Care Determination Notice on December 12, 2015 effective January 1, 2015 closing the Claimant's MA case. The notice indicates that it used no income for 3 of the children, [REDACTED], [REDACTED], and used \$6,228 for Brian. The notice as issued is incorrect. Exhibit B.
8. The annual income used for [REDACTED] to determine MA eligibility was \$6,228. There was no evidence regarding whether a tax return for 2014 was filed for [REDACTED] at the time of the hearing. Exhibit B.
9. The annual income used or attributed to the three remaining children, [REDACTED] was \$0. Exhibit B.
10. The Claimant's monthly gross income for November 2014 used by the Department was \$2127.24. The monthly income used for Claimant's wife was \$2798.86. These amounts were based upon check stubs provided to the Department as part of the redetermination. Exhibit A.
11. The Department calculated the annual income used to determine eligibility as \$55,100 which was manually computed at the hearing. Exhibit C.
12. The Claimant requested a hearing on February 23, 2015 protesting the closure of his children's medical assistance.

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, the Department closed the Claimant's medical assistance case for his 4 children on January 1, 2015 after completion of the redetermination. The Department computed the eligibility of the Claimant's household on the basis of 4 children needing coverage based upon the redetermination completed by the Claimant. The Claimant determined that the MA household group size was 7 members based upon the information provided in the redetermination.

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. BEM 105 (October 2014), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1.

The Medicaid program is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1. 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. BEM 105, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105, p. 1. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BEM 105, p. 1.

Persons may qualify under more than one MA category. BEM 105, p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The most beneficial category may change when a client's circumstances change. BEM 105, p. 2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2.

HMP is considered a MAGI related category. Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 4.

Available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

The HMP Magi Related Medical Assistance program provides health care coverage for individuals who:

- Are 19-64 years of age
- Have income at or below 133% of the federal poverty level under the MAGI methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan
- Medicaid Provider Manual, *Michigan Department of Community Health*, January 2015, page 453. Available at <http://www.mdch.state.mi.us/dch-medicaid/manuals/medicaidprovidermanual.pdf>. All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 453.

The HMP program was not available to Claimant's children at the time of the Redetermination as it covers individuals age 19-64.

Before determining whether Claimant's household income is at or below various percentages required to be met based on the applicable federal poverty level percentage, for a MAGI program the Department must determine Claimant's household composition. The size of the household will be determined by the principles of tax dependency in the majority of cases. MAGI Related Eligibility Manual, p. 14.

The issues that require further clarification regarding closure of the Claimant's children's MA case due to excess income involve determining family size and countable income sources. In the Modified Adjusted Gross Income (MAGI) Related Eligibility Manual size of household is addressed:

MAGI policy requires that the size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household. Parents and stepparents are treated the same. Individual family members may be eligible under different categories. MAGI Manual (May 28, 2015) p. 12.

5.2 TAX FILERS AND NON-TAX FILERS

- a. The household for a tax filer, who is not claimed as a tax dependent, consists of:
- Individual
 - Individual's spouse
 - Tax dependents

In this case the Department included five children that the Claimant claimed as tax dependents as group members based upon the joint tax return information provided in the redetermination. At the time of the redetermination ██████ was 18. ██████ was included in the family group size as he was claimed as a tax dependent. The Department did not provide any testimony regarding whether ██████ filed federal income taxes. Exhibit A, p. 3. Thus, for purposes of determining Medical Assistance eligibility, the group size of 7 is correct. In this case, Claimant testified that he and his wife were tax filers and claimed five tax dependents. Exhibit A. MAGI Related Eligibility Manual, p. 14. Thus the group size for medical assistance analysis is a group of 7. The Department correctly determined group size.

As regards determination of countable income policy provides:

7.1 COUNTABLE INCOME SOURCES

The following are common sources of income which are countable in a MAGI related determination:

- Wages/Salary
- Self-Employment
- RSDI
- Pensions
- Unemployment Benefits
- Spousal Support

MAGI Related Eligibility Manual, p. 14.

At the hearing it was established that the Department used pay stubs provided by the Claimant and his spouse to determine annual income. The Claimant's gross monthly income was \$2127.24 and his wife's (step-parent to his children except Mackenzie Finn) gross monthly income of \$2798.86. Exhibit A p. 4, Exhibit C p. 1. The Department testified that the annual income it used to determine MAGI eligibility was \$55,100. The Department based the annual amount based upon a manual calculation performed at the hearing because the Bridges system was down and the actual income used could not be retrieved during the hearing. Based upon the monthly income amounts reported by the Claimants and used by the Department, the annual income of \$55,100 is incorrect. Adding the two monthly incomes of Claimant and his spouse together and

multiplying by 12 results in annual income of \$59,113. ($\$2127.24 + \$2798.86 = \$4926 \times 12 = \$59,113$).

As regards the types of MAGI groups and programs available MAGI policy defines them as:

The MAGI related groups are:

- Children (U19). The income limit for children birth to age 1 is 195% FPL. The income limit for a child age 1-19 is 160% FPL.
- Pregnant Women (PW). The income limit for pregnant women of any age is 195% FPL.
- Parents and caretakers (PCR). The income limit for parents and caretakers is 54% FPL.
- Healthy Michigan Plan (HMP). The income limit for adults age 19-64 is 133% FPL.
- MIChild. The income limit for children birth to age 19 is 212% FPL.

The analysis now turns to whether Claimant's household income qualifies his children for the MAGI programs Under 19 (children U-19) or MI Child. For each of these programs, eligibility is determined based upon whether the group income is at or below the percentage of the federal poverty level required for either of these MAGI categories. Because Claimant's medical case for the children's benefits closed in 2014, the review must be based on the 2014 Poverty Guidelines. The 2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia indicated that the poverty guidelines for persons in family/household size of seven (7) is \$36,030. 2014 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 22, 2014, p. 1. Available at: <http://aspe.hhs.gov/POVERTY/14poverty.cfm>.

For Children U-19, the poverty guidelines for a household size of seven must be multiplied by 1.60 (160%) to obtain the 160% federal poverty level income calculation. The result is that Claimant's income must be at or below \$57,648. ($\$36,030 \times 1.6 = \$57,648$.) Thus even though the Department incorrectly manually calculated the annual income, the Claimant's annual income exceeded the income limit for Children U-19 eligibility.

The Claimant's household annual income of \$59,113 exceeds \$57,648.

Also examined for MAGI eligibility based upon the Claimant's annual income of \$59,113 was MAGI category MI Child for children under the age of 19. For this program the household income cannot exceed 212% of the federal poverty level. 212% of \$36,030 is \$76,320 ($\$36,030 \times 2.12 = \$76,320$). Based upon the Claimant's household income of \$59,113 it is determined that the Department incorrectly closed the Claimant's

medical assistance case for the four children as they are eligible for the MI Child program.

As the Department offered no analysis for the non-MAGI related Group 2 Children under 21, no determination will be made with regard to eligibility for this program, but as applicants are eligible to the most favorable programs affording eligibility or the least excess income, this medical assistance program should also be examined when the Claimant's MA case is reinstated. See BEM 536 (January 1, 2014)

Finally, it appears that the Department included the Claimant's son [REDACTED] income when computing eligibility for the 4 children and did not include the family group income. Exhibit B. The Department must determine whether [REDACTED] income of \$6,228 should be included. Regulations contained in 42 CFR 435.603(d), (2), (i) and (ii) address whether income of children and tax dependents are included in household income. This regulation provides that (i) the MAGI based income if the individual (child) is not expected to be required to file a tax return under Section 6012(a)(1) of the Code for the taxable year in which eligibility for Medicaid is being determined, is **not** included in household income whether or not the individual files a tax return. This section also provides that (ii) the MAGI based income of a tax dependent who is not expected to file a tax return is not included in household income of the taxpayer whether or not such a tax dependent files a tax return.

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 closed the Claimant's children's medical assistance cases for excess income. Clearly the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated household income and an explanation as to how it determined closure was appropriate based upon the defective Health Care Determination Notice issued in this case. Exhibit B.

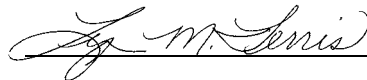
DECISION AND ORDER

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. The Department shall reinstate the Claimant's medical assistance coverage for the Claimant's four children and re-calculate their eligibility consistent with the findings in this Decision.

2. The Department shall effectuate eligibility based upon the most advantageous medical assistance program available to the Claimant's children based upon Department policy and MAGI related guidelines.
3. The Department shall issue a Health Care Determination Notice to the Claimant regarding its determination.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/22/2015**

Date Mailed: **5/22/2015**

LMF / cl

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]