

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 15-007240
Issue No.: 2001
Case No.: ██████████
Hearing Date: June 10, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

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 June 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Claimant Medical Application for Healthy Michigan Plan (HMP) due to her income exceeding the HMP program income limit?

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 completed a redetermination for April 2015 and pay stubs for March 2015 were provided.
2. The Department issued a Health Care Coverage Determination Notice on April 20, 2015, effective June 1, 2015, closing the Claimant's MA case (HMP) because the Department found her income exceeded the annual limit for HMP. Exhibit 1.
3. The Department determined that the Claimant's annual income was \$16,656. Exhibit 1.

4. The Department used a 30-day-period beginning February 26, 2015 through March 26, 2015. The pays used were as follows: 2/26/15, \$715.22; 3/12/15, \$585.54; 3/26/15, \$628.39. The Claimant is paid bi-weekly. Exhibit 2. The Department used \$1,382.56 based on the employment budget summary monthly income ongoing when determining what the monthly income was for March 2015. The Department was to have faxed the employment budget summary to the undersigned after the hearing as it was marked as Exhibit 3, but was not received.
5. The Claimant's annual earnings for 2014 were \$8,133.49.
6. The Claimant objected to the income determination made by the Department as the months examined were not representative of her normal income.
7. The Department used pay information from the work number for the Claimant's employer, [REDACTED]. Exhibit 2.
8. The Claimant requested a hearing on April 27, 2015 protesting the Department's denial of her application for 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, Claimant disputed the Department's closure of her MA case. The April 20, 2015, Health Care Coverage Determination Notice notified Claimant that her case closed because she was not under 21, pregnant, the caretaker of a dependent child, over 65, blind or disabled, and her income exceeded the income limits for her household size. Exhibit 1.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2014), p. 1; Michigan

Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

At the hearing, the Department explained that Claimant had been receiving MA under the HMP plan. HMP 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 Modified Adjusted Gross Income (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. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

The Claimant explained that she received increased earnings from [REDACTED], her employer, due to one of her co-workers being on leave, which made her income increase due to receiving more hours and, thus, she became ineligible for continued HMP coverage. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Claimant was a tax filer and had no spouse or dependents. Therefore, for MAGI purposes, she has a household size of one. Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 5.2, *available at* http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf. 133% of the annual FPL in 2015 for a household with one member is \$15,654. <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. If an individual is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MAGI Related Eligibility Manual, § 7.2. Therefore, Claimant is income-eligible for HMP if her annual income does not exceed \$15,654, or, with the 5% disregard, if her annual income does not exceed the disregard limit.

The Health Care Coverage Determination Notice indicates that the Department used annual income of \$16,656.00 in determining Claimant's health care coverage. At the hearing, the Department explained that in calculating Claimant's annual income at the time the Notice was issued, it relied on the three check stubs based upon the Work Number in response to the April 2015 redetermination. A review of the check stubs indicated was made at the hearing, and it could not be determined how the Department determined the monthly budgeted income found in the employment budget summary in the amount of \$1,382. The Claimant confirmed the pay stub amounts on the Work Number. Based upon the pay stubs, the Department Hearing Facilitator credibly testified that the Department determined that Claimant's gross monthly income for Claimant used to calculate annual income was \$1,382 based upon the employment budget summary. Based upon this income the Department determined Claimant's income made her ineligible for HMP. Based on monthly income of \$1,382 the Claimant's

annual income is \$16,584 if you multiply the monthly income by 12 to get annual income. The annual income of \$16,665 which appears on the Health Care Coverage Determination Notice is greater than the \$15,654 income limit for HMP eligibility, thus the Department closed the Claimant's case.

At the hearing, Claimant testified that her pay during the period examined by the Department was unusually high, explaining that she was working extra time due to a co-worker being on leave and that her hours have been reduced and were lowered and not expected to continue. In determining an individual's eligibility for MAGI-related MA (which includes HMP), 42 CFR 435.603(h)(2) provides that "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year." The regulations further provide that, in determining current monthly or projected annual household income, the Department may adopt a reasonable method "to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income," with future increases or decreases in income verified in accordance with policy. 42 CFR 435.603(h)(3). As stated at the hearing, if the Claimant's income continues to decrease, the Claimant may reapply at any time depending on the outcome of the Department's re-examination of her eligibility as ordered below.

Department policy provides that MA eligibility is determined on a calendar month basis. BEM 105 (January 2014), p. 2. 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. BEM 105, p. 2. When determining eligibility for a future month, the Department should assume circumstances as of the processing date will continue unchanged unless it has information that indicates otherwise. BEM 105 (October 2014), p. 2.

Ultimately, because the Department could not explain how it arrived at the Claimant's monthly income used to determine her HMP income eligibility, and the discrepancy based upon the employment budget summary regarding the annual income amounts, and the annual income stated in the Department's Notice, the Department conceded that the Claimant's MA case should be re-examined and re-budgeted.

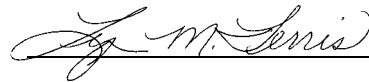
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's HMP case.

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 HMP case as of June 1, 2015 and shall re-determine eligibility for the program and re-determine monthly income.
2. The Department shall issue a written notice to the Claimant regarding its eligibility determination.



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

Date Signed: **7/9/2015**

Date Mailed: **7/9/2015**

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]