

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

IN THE MATTER OF:

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

Reg. No.: 15-007326
Issue No.: 2001
Case No.: ██████████
Hearing Date: June 11, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 11, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, and ██████████, Eligibility Specialist and translator.

ISSUE

Did the Department properly deny Claimant's husband's February 20, 2015 application for Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Claimant and her husband live together with their two minor children, ages 11 and 9.
2. On February 20, 2015, Claimant's husband applied for MA.
3. On April 27, 2015, the Department sent Claimant a Health Care Coverage Determination Notice denying her husband's application for MA because he or a group member was in noncooperation with reporting obligations with the Office of Child Support (OCS) and because he was not income eligible based on annual income of \$57,792 (Exhibit A).

4. On May 6, 2015, Claimant filed 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.

The April 27, 2015, Health Care Coverage Determination Notice denied Claimant's husband's application for MA because (i) he or a group member was in noncooperation with reporting obligations with the OCS and (ii) he was not income eligible based on annual income of \$57,792.

In order to be eligible for MA, the custodial parent must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom assistance is received unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (April 2015), p. 1.

In this case, the Department testified that OCS had applied a child support sanction to Claimant's husband case on October 28, 2013, that was not removed until May 1, 2015. While evidence at the hearing established that Claimant and her husband had not been legally married since 2007, they continued to present themselves as husband and wife. The Department testified, and Claimant and her husband both confirmed, that they were both parents of the two minor children at issue and had lived together in the same household as the children since the children's birth. Based on the Department conceding that there was no basis for the child support sanction applied against Claimant's husband, the Department did not act in accordance with Department policy when it denied his application for MA based on child support noncooperation.

The Health Care Coverage Determination Notice also indicated that Claimant's husband was income ineligible for MA based on his income. As the parent of minor children in his care, Claimant's husband's income would not preclude him from eligibility for Group 2 Caretaker/Relative MA coverage, which provides for MA coverage subject to a

monthly deductible for individuals with excess income. BEM 135 (January 2015), pp. 1, 3. Thus, the Department erred in concluding that Claimant's husband's income made him ineligible for MA coverage.

Furthermore, a client is entitled to the most beneficial program, which is the one that results in eligibility or the least amount of excess income. BEM 105 (October 2014), p. 2. Therefore, the Department would also have to assess Claimant's husband's MA eligibility under MAGI policies, particularly for parents and caretakers (PCR), which has no deductible, and the Healthy Michigan Plan (HMP). Michigan Department of Community Health, MAGI-Related Eligibility Manual (MREM), § 1.2. Claimant and her husband, who file jointly as married individuals and claim their two minor children as dependents, have a group size of four for MAGI purposes. MREM, § 5.2. An individual is eligible for PCR if his group has annual income at or below 54% of the federal poverty level, or \$13,095 for 2015, or when a 5% disregard is applied, 59% of the FPL, or \$14,307.50. An individual is eligible for HMP if his group has annual income at or below 133% of the FPL, or \$32,252.50, or when a 5% disregard is applied, 138% of the FPL, or \$33,465. MREM, §§ 1.2; <http://aspe.hhs.gov/poverty/15poverty.cfm>.

According to the April 27, 2015, Health Care Coverage Determination Notice, Claimant's household had annual income of \$57,792. Claimant's husband disputed the Department's figure. In the application, Claimant's husband identified weekly income of \$500, which would make him eligible for MAGI-related MA under HMP. When a client's attested income is below the income threshold for the program being tested but the trusted data source indicates income above the income threshold, then reasonable compatibility test is performed. MREM, § 7. When the income attested by the MA applicant is not within 10% of the income from trusted sources, the individual is required to provide proof of attested income. MREM, § 7.

In this case, the sole income received by the household is Claimant's husband's income from his company, [REDACTED]. The Department requested verification of Claimant's husband's income pursuant to a Verification of Employment, DHS-38, but then rejected that verification because it was signed by Claimant's husband. However, as the sole member of his LLC, Claimant's husband signed the DHS-38 in his capacity as owner of [REDACTED]. For MA purposes, money received from an LLC is unearned income. BEM 503 (July 2014), p. 29. Therefore, a DHS-38 would be inappropriate verification for LLC income.

In this case, Claimant's husband testified that he does not file taxes for the LLC separate from the taxes he jointly files with Claimant. At the hearing, he provided a copy of their 2014 tax information through an Internal Review Service tax return transcript that showed total household income of \$24,544. The Department failed to present any evidence supporting the \$57,792 annual income figure it used to deny Claimant's husband's MA application. Because the Department did not properly request verification from Claimant's husband and presented no evidence to support its

income figure, the Department did not act in accordance with Department policy when it concluded that Claimant was not income-eligible for MA under MAGI-related policies.

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 denied Claimant's husband's MA application.

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. Remove the child support noncompliance sanction applied to Claimant's and/or her husband's record on or about October 28, 2013;
2. Reregister and reprocess Claimant's husband's February 20, 2015, MA application;
3. Provide Claimant's husband with MA coverage he is eligible to receive from February 1, 2015, ongoing; and
4. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/01/2015**

Date Mailed: **7/01/2015**

ACE / tlf

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

