

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-009689  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: August 04, 2015  
County: LIVINGSTON

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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, telephone hearing was held on August 04, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], General Services Program Manager, and [REDACTED], Family Independence Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for Medical Assistance (MA)?

**FINDINGS OF FACT**

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

1. On April 13, 2015, the Department received the Claimant's application for Medical Assistance (MA).
2. The Claimant provided the Department with verification that during 2015, he has received a \$14,937.95 disbursement from his trust.
3. On May 4, 2015, the Department determined that the disbursement the Claimant received from his trust account is countable income.
4. On May 26, 2015, the Department notified the Claimant that it had denied his Medical Assistance (MA) application based on his income.
5. On June 1, 2015, the Department received the Claimant's request for a hearing protesting the denial of his Medical Assistance (MA) application.

## **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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.<sup>1</sup>

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

Count payments from a trust to a beneficiary as the beneficiary's unearned income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2015), p 34.

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<sup>1</sup> Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf)

On April 13, 2015, the Department received the Claimant's application for Medical Assistance (MA). The Claimant provided the Department with verification that during 2015, he had received a \$14,937.95 disbursement from his trust.

On May 4, 2015, the Department determined that the disbursement the Claimant received from his trust account is countable income. This determination was made by the Department's Trust/Annuity Evaluation application of BEM 401 and its findings that the funds in the trust are available to the Claimant. However, this Administrative Law Judge finds that this determination is irrelevant with respect to this hearing. If the Claimant were to meet the non-financial criteria for disability based MA benefits, this evaluation would then become relevant when determining his countable assets.

The instructions in BEM 401 do not apply to MAGI-related MA programs, such as the Healthy Michigan Plan (HMP), because they have no asset test. Department of Health and Human Services Bridges Eligibility Manual (BEM) 401 (May 1, 2015), p 1.

The disbursement the Claimant received from his trust is countable unearned income as defined by BEM 503, and the issue here is whether it is excludable from his Modified Adjusted Gross Income for the purposes of determining his eligibility for MA benefits under HMP.

The Department determined from the material the Claimant submitted with his application that he received a \$14,937.95 disbursement from his trust during the first four months of 2015. The Department found this to be the equivalent of a gross monthly income of \$3,734. Even after the 5% disregard is applied against this income, a gross monthly of \$3,685 disqualifies the Claimant from HMP benefits because it exceeds 133% of the federal poverty level for a group of one.

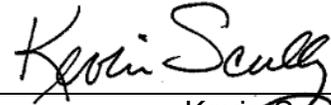
The Claimant argued that a significant portion of the funds he received from his trust were used to fund a college savings program and a Roth IRA and that his income meets the HMP limit if these contributions are excluded from his countable income.

This Administrative Law Judge finds no basis for excluding contributions to a 529 College Savings Plan or a Roth IRA from a determination of his adjusted gross income, or his modified adjusted gross income. Since this income is countable unearned income under BEM 503, and not excluded by the Department's manuals on MAGI related income, it does count towards his eligibility for MA benefits under HMP.

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 acted in accordance with Department policy when it denied the Claimant's application for Medical Assistance (MA).

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.



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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **8/18/2015**

Date Mailed: **8/18/2015**

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**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:

