

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008343
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 22, 2015
County: Mason

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 July 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's Medical Assistance (MA) eligibility?

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 December 6, 2014, the Department received the Claimant's application for Medical Assistance (MA) benefits.
2. The Claimant's household consists of six people and includes himself, his adult wife, two minor children, a minor niece, and a minor nephew.
3. From April 14, 2015, through May 5, 2015, the Claimant received earned income from employment in the gross monthly amount of \$ [REDACTED].
4. The Claimant's wife receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED].
5. The Claimant's nephew receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].

6. The Claimant's niece receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
7. On May 7, 2015, the Department notified the Claimant that it would close his Medical Assistance (MA) benefits under the Healthy Michigan Program (HMP), and approved him for MA benefits with a \$ [REDACTED] monthly deductible as a caretaker relative effective June 1, 2015.
8. The Department received the Claimant's request for a hearing protesting the Department's determination of his eligibility for Medical Assistance (MA) benefits.

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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Human Services Bridges Eligibility Manual (BEM) 105 (October 1, 2014), p 2.

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

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.¹

The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 12-13. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

- Individual's spouse
- Tax dependents.

The household for a non- tax filer who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse
- The individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student.
- If the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student). Id.

The household for an individual who is a tax dependent of someone else, consists of:

- The household of the tax filer claiming the individual as a tax dependent, except that the individual's group must be considered as non-filer/non-dependent if:
- The individual is not the spouse or a biological, adopted, or step child of the taxpayer claiming them; or
- The individual is under the age of 19 (or under 21 if a full time student) and expects to be claimed by one parent as a tax dependent and are living with both parents but the parents do not expect to file a joint tax return; or
- The individual is under the age of 19 (or under 21 if a full time student) and expects to be claimed as a tax dependent by a non-custodial parent,
- The individual's group consists of the parent who has a court order or binding separation, divorce, or custody agreement establishing physical custody controls, or
- If there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights. Id.

In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as a tax dependent. 42 CFR 435.603(f)(1).

A tax dependent is defined in IRS Publication 501 and can include:

- a person's son, daughter, stepchild, foster child, or a descendant of any of them, or a brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of any of them;
- that is under the age of 19, or a student under the age of 24, or a permanently and totally disabled child of any age;
- that has lived with the tax filer for more than half the year except for temporary absences;
- that cannot have provided more than half of his or her own support; and
- that does not file their own joint tax return.

On December 6, 2014, the Department received the Claimant's application for Medical Assistance (MA). The Claimant was approved for MA benefits under the Healthy Michigan Plan (HMP).

The Claimant applied for MA benefits as a household of six people consisting of the Claimant, his wife, the Claimant's two children, and the Claimant's niece and nephew.

From April 14, 2015, through May 5, 2015, the Claimant received earned income from employment in the gross monthly amount of \$ [REDACTED]. The Claimant's wife receives earned income from employment twice a month in the gross monthly amount of \$ [REDACTED]. The Department determined that the Claimant's niece and nephew must be excluded from his MA benefit group. On May 7, 2015, the Department determined that as a group of four, the Claimant's countable income exceeds 133% of the federal poverty level and closed HMP benefits for the Claimant and his wife. As a caretaker of minor children, the Department determined that the most beneficial category of MA benefits the Claimant is eligible for is as a caretaker relative (G2-C) and that he is eligible for MA in this category with a \$ [REDACTED] monthly deductible.

The MAGI manual instructs the Department to determine MA group size based on the principles of tax dependency and that individual family members may be eligible under different categories. In this case, the relevant eligibility determination is that of the Claimant and his wife. The Claimant and his wife are tax filers, and they expect to claim their children and their niece and nephew as dependents. The fact that the Claimant is the guardian of his niece and nephew is not significant because the MAGI manual indicates that eligibility is determined by tax dependency.

This Administrative Law Judge finds that the Claimant's benefit group for MAGI related MA benefits should include himself, his spouse, and the four children he expects to claim as tax dependents. For a group of six, the monthly income limit consisting of 133% of the federal poverty limit is \$ [REDACTED].

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 Medical Assistance (MA) benefits under the Healthy Michigan Plan (HMP) based on income after improperly excluding his niece and nephew from his benefit group.

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. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) as of June 1, 2015.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **7/30/2015**

Date Mailed: **7/30/2015**

KS/las

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:

