

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-021464
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: WASHTENAW

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the Petitioner'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, an in-person hearing was held on January 13, 2016, from Ypsilanti, Michigan. The Petitioner and her husband were represented by her husband, [REDACTED] and [REDACTED] Enrollment Specialist of Washtenaw Health Plan. The Department was represented by Assistance Payments Supervisor [REDACTED]

ISSUE

Did the Department properly reduce the Petitioner's full Medical Assistance (MA) case to a MA case with a deductible?

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 Petitioner's husband was a recipient of full MA and his redetermination was due November 2, 2015.
2. On October 20, 2015, the Department received the Petitioner's redetermination which cited an increase of earned income of \$ [REDACTED] per week.
3. On October 23, 2015, verification checklist was sent to the Petitioner requesting income verification due by November 2, 2015.
4. The Petitioner's 2014 tax returns reflect an adjusted gross income of \$ [REDACTED]. The Petitioner's husband's pay stubs reflect a gross weekly income of \$ [REDACTED].

5. On October 28, 2015, the Department sent the Petitioner a DHS-1606, Health Care Coverage Determination Notice, informing the Petitioner that her husband is eligible for MA with a monthly deductible of \$ [REDACTED] and that the Petitioner's wife was eligible for ESO MA with a deductible of \$ [REDACTED]
6. On November 3, 2015, the Department received the Petitioner's written hearing request protesting the Department's determinations.
7. On November 16, 2015, the Department sent to the Petitioner a DHS-1606, Health Care Coverage Determination Notice, informing the Petitioner that his wife was now eligible for ESO MA with a monthly deductible of \$ [REDACTED]

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, at the onset of the hearing, the Petitioner's husband testified that the Department has now properly determined that his wife has ESO MA coverage and he is no longer protesting that issue. The Petitioner's husband withdrew his request for hearing regarding that issue and that portion of this hearing request is hereby **DISMISSED**.

The contested issue during the hearing was whether or not the Petitioner's husband had excess income to be eligible for the Healthy Michigan Plan (HMP). The Petitioner's husband stated that his profits from his business were reduced when he decided to pay himself \$ [REDACTED] a week, and that weekly amount would likely to change throughout the course of the year.

The Department verified the Petitioner's husband income via his tax return and paystubs. In support of its argument that the Petitioner had excess income to be eligible for HMP the Department submitted an excerpt from the Michigan Department of Community Health Modified Adjusted Gross Income (MAGI) Related Eligibility Policy. It cited specifically, chapter 7 and 7.1 FPL Monthly Poverty Guidelines indicating that, for a family size of five, the income limit for 133% MAGI groups is \$ [REDACTED]. However, the

date on this policy excerpt submitted is September 9, 2013. Furthermore, a close examination of the MAGI Eligibility Determination in evidence does not specify which FPL% was used in making the eligibility determination.

Lastly, the Petitioner's husband argued that a 5% disregard should be applied to his case. In support of that argument, the Petitioner's husband submitted an excerpt from the Michigan Department of Community Health Modified Adjusted Gross Income (MAGI) Related Eligibility Policy. Specifically, 13.1, p. 13, indicates that the 5% disregard shall be applied only if required to make someone eligible for Medicaid. However, the date on that policy excerpt is May 28, 2014.

Bridges Eligibility Manual (BEM) 502 (2015) p. 7, provides that for all types of assistance, *except MA*, the primary source of verification of self-employment income is a tax return. For MA, the primary source of verification is a Schedule C, Profit or Loss From Business. The Schedule C is acceptable even if not yet filed with the IRS.

BEM 105 (2015), p. 2 provides that, Medicaid eligibility is determined on a calendar month basis. 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. When determining eligibility for a future month, the worker is to assume circumstances as of the processing date will continue unchanged unless the worker has information that indicates otherwise.

Because the Petitioner's income was not verified via Schedule C, Profit or Loss From Business; because there is no report of which FPL% level was used in making the eligibility determination and because the income limit the Department used was based on an income limit table from 2013, this Administrative Law Judge concludes that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that the Petitioner's husband was only eligible for MA with a deductible.

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. Redetermine the Petitioner's husband's eligibility for MA back to December 1, 2015, and

2. Issue the Petitioner's husband any supplement he may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/26/2016**

SEH/nr

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:

