

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022677
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: February 16, 2016
County: Oakland 2

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following 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, a telephone hearing was held on February 16, 2015, from Lansing, Michigan. Petitioner personally appeared and testified. The Department was represented by Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP).
2. Petitioner is married and lives with her husband and four children under the age of 18 years.
3. Petitioner's husband is employed.
4. On October 13, 2015, Petitioner submitted a redetermination concerning her ongoing MA eligibility (ALJ Exhibits A-F).
5. On November 16, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her husband was no longer eligible for MA, because he was not under 21 or over 65, pregnant, the caretaker of a minor child in the home, blind, or disabled and because she was not income eligible. The

notice also informed Petitioner that she had a \$ [REDACTED] MA deductible (Dept. Exh. A, pp 10-11).

6. On November 25, 2015, Petitioner filed a request for hearing disputing the Department's actions concerning her 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), Department of Health and Human Services Medicaid Provider Manual (MPM), Department of Health and Human Services Modified Adjusted Gross Income Related Eligibility Manual (MREM), 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.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (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 (October 2014), p. 1; MPM, Healthy Michigan Plan, § 1.1.

At the hearing, the Department explained that Petitioner 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. MPM, Healthy Michigan Plan, § 1.1.

The Department explained that when it processed Petitioner's redetermination using her husband's updated employment income, Petitioner's husband was no longer income-eligible for HMP.

An individual is eligible for HMP if the 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 Petitioner lived with her husband and four children

under the age of 18 (ALJ Exhibits A-F). Therefore, for MAGI purposes, she has a household size of six. MREM, § 5.2. 133% of the annual FPL in 2015 for a household with six members is \$ [REDACTED] <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$ [REDACTED]. Petitioner's husband's undisputed gross income is \$ [REDACTED] a year.

Petitioner's annual income of \$ [REDACTED] is greater than the \$ [REDACTED] income limit for HMP eligibility. However, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2. 5% of the FPL for a two-person group is \$ [REDACTED]. Petitioner's household annual income of \$ [REDACTED] less \$ [REDACTED] is \$ [REDACTED]. Because \$ [REDACTED] remains over the HMP income limit of \$ [REDACTED], Petitioner is not income-eligible for HMP even when the 5% disregard is applied.

However, before closing Petitioner's MA case due to ineligibility for HMP, the Department was required to conduct an ex parte review to determine if her husband was eligible for MA under other MA categories unless he was ineligible for any MA coverage. BAM 220 (July 2015), pp. 17-20; BAM 210 (July 2015), p. 1. A client is entitled to the most beneficial MA category, which is the category which results in eligibility or the least amount of excess income. BEM 105, p. 2. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220, p. 17.

In this case, Petitioner indicated in her redetermination that she lives with her husband and four children (ALJ Exhibit A-F).

The parent who lives with a dependent child is eligible for MA under the Group 2 Caretaker (G2C) program. BEM 135 (January 2015), p. 1. To be a dependent child, a child must meet the following age and school requirement: (i) he must be under age 18 or (ii) age 18 and a full-time student in a high school or the equivalent level of vocational or technical training and expected to complete his educational or training program before age 19. BEM 135 (January 2015). On the basis that Petitioner's children are under 18 and are listed as full-time students, Petitioner is eligible for MA under the G2C program.

A review of the budget the Department used in determining Petitioner's MA-G2 status lists a fiscal group of 2. Based on the Redetermination submitted by Petitioner, she has a fiscal group of 6. As a result, the Department's MA-G2 finding is reversed.

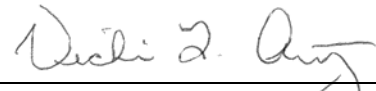
DECISION AND ORDER

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 Petitioner's MA-G2 status using the correct Fiscal group according to Petitioner's redetermination.
2. Notify Petitioner in writing of its decision.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/22/2016**

VA/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 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:

