

**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.: 15-023062
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: February 17, 2016
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 17, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's 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. On [REDACTED], Petitioner applied for MA benefits.
2. Petitioner was a non-pregnant individual aged between 19-64 years.
3. Petitioner's only potential MA category was through the Healthy Michigan Plan (HMP).
4. On an unspecified date, Petitioner submitted verification of gross employment earnings of \$620.32 on [REDACTED] and \$639.43 on [REDACTED].

5. Petitioner also reported to MDHHS that she works for a school and has no employment earnings in the summer, Christmas break (one month), one week in March, and one day in April
6. On [REDACTED], MDHHS denied Petitioner's HMP eligibility due to excess income.
7. On [REDACTED], Petitioner requested a hearing to dispute the denial of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of MA benefits. It was not disputed that Petitioner's only potential MA category was through HMP.

The Healthy Michigan Plan is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGI).

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner was ineligible for HMP/MAGI-related MA due to excess income.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The federal poverty level is \$11,770 for a one-person group. The HMP income limit for a non-pregnant group of 1 is \$15,654.10. The disputed issue primarily concerned how MDHHS calculated Petitioner's annual income.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. BEM

500 (July 2015), p. 3. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information. *Id.*

Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size. 42 CFR 435.603 (h)(1). MDHHS and federal regulations provide no known directives on how “current monthly income” is to be calculated.

MDHHS calculated Petitioner’s annual income to be \$16,320. MDHHS could not explain how Petitioner’s income was calculated. MDHHS did present Petitioner’s pay history (Exhibit 1, p. 3). Some effort was made to guess how MDHHS calculated Petitioner’s annual income.

Petitioner’s most two recent biweekly gross pays were verified to be \$639.43 and \$620.32. If Petitioner’s most recent pays are reflective of her earnings for the entire year, then multiplying Petitioner’s earnings in the 28 day period would accurately reflect Petitioner’s annual earnings. This method results in \$16,376.75 in prospective income for Petitioner. This method does not match the income calculated by MDHHS, but it is relatively close; presumably, MDHHS performed a similar calculation. Both the MDHHS calculated and above calculation result in HMP ineligibility. As it happened, Petitioner reported some caveats when she submitted her pay history.

Petitioner testified she works in food service for a university. Petitioner testified she started the employment in September 2015. Petitioner testified she is not employed during slower times of the school year. Petitioner’s submitted income verification included her statement that she does not work during the summer, one month over Christmas break, a week in March, and one day in April. Petitioner’s statement was logical and credible.

In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indication of such future changes in income. 42 CFR 435.603 (h)(3). Such future increase or decrease in income or family size must be verified in the same manner as other income and eligibility factors, in accordance with the income and eligibility verification requirements at § 435.940 through § 435.965, including by self-attestation if reasonably compatible with other electronic data obtained by the agency in accordance with such sections. *Id.*

MDHHS is not known to have adopted the above method, however, they are also not known to have rejected it. In lieu of evidence to reject the method, it should be adopted as it appears to more accurately represent Petitioner’s annual income. Excluding 13

weeks (8 weeks for summer, 4 weeks for Christmas, and 1 week for break in March), would result in an annual income likely placing Petitioner below HMP income limits.

Though it is not known what methods MDHHS used to determine Petitioner's annual income, it is apparent that MDHHS failed to factor periods when Petitioner was not employed. Accordingly, the determination of Petitioner's HMP eligibility is found to be improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for MA benefits. It is ordered that MDHHS begin the following actions, in accordance with policy and this hearing decision, within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's MA application dated [REDACTED]; and
- (2) initiate processing of Petitioner's application subject to the finding that MDHHS should have factored Petitioner's reported periods of non-employment.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **FEBRUARY 29, 2016**

Date Mailed: **FEBRUARY 29, 2016**

CG / hw

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:

