

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-023388
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: February 16, 2016
County: Macomb-District 12
(Mt Clemens)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, 2016, from Detroit, Michigan. Petitioner and his wife, ██████████, were present and represented Petitioner. ██████████, business manager at ██████████ ██████████, the facility in which Petitioner resides, and ██████████ ██████████, regional supervisor at ██████████ appeared on Petitioner's behalf. The Department was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Medicaid (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 October 27, 2015, Petitioner applied for long-term care (LTC) MA benefits and requested retroactive coverage to September 1, 2015 (Exhibit B).
2. On November 20, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was approved for full-coverage MA for September 2015 but denied any ongoing coverage due to family income limit.
3. On December 3, 2015, the Department received Petitioner's wife request for hearing disputing the Department's denial.

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 Community Health 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.

In its November 20, 2015 Health Care Coverage Determination Notice, the Department approved Petitioner for full-coverage MA for September 2015 but denied his October 27, 2015 application for LTC MA due to excess income. At the hearing, the Department testified that, in processing the application, it considered only Petitioner's eligibility for MA under the Healthy Michigan Program (HMP). The Department explained that, based on Petitioner's wife's income, Petitioner was not income eligible for HMP, but he was improperly approved for HMP coverage for September 2015 because the worker erred in failing to input the wife's September 2015 income in calculating the household's income for that retroactive month, resulting in \$0 of household income for that month.

An individual is income-eligible for HMP if his household's income does not exceed 133% of the federal poverty level (FPL) under the modified adjusted gross income (MAGI) methodology based on the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax filing status. In this case, Petitioner and his wife filed jointly. Therefore, for MAGI purposes, they have a household size of two. MREM, § 5.2. 133% of the annual FPL in 2015 for a household with two members is \$21,186.90. <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. Therefore, to be income eligible for HMP, Petitioner's household's annual income cannot exceed \$21,186.90.

In this case, the sole source of income in Petitioner's household was his wife's employment income. Petitioner testified that her income varied. The Department testified that it had four paystubs (showing \$1106.90 gross paid on August 14, 2015; \$1149.12 gross paid on August 28, 2015; \$1075.48 gross paid on September 11, 2015; and \$1164.62 gross paid on September 25, 2015), and it used the September 2015 paystubs to prospect the household's income.

Using MAGI methodology, financial eligibility must be based on current monthly household income and family size. 42 CFR 435.603(h)(1). The Department may adopt a reasonable method of projecting annual household income, taking into consideration any reasonably predictable increase or decrease in future income. 42 CFR 435.603(h)(3). In this case, Petitioner's biweekly pay based on the four paystubs provided did not vary by more than \$100. Based on her September 2015 pay, Petitioner's wife received monthly income of \$2240.10. This figure multiplied by 12 results in annual income of \$26,881.20. Because \$26,881.20 is greater than the \$21,186.90 HMP income limit, the Department properly concluded that Petitioner was ineligible for MA coverage under HMP.

However, an individual is eligible for the most beneficial category, which is the one that results in eligibility or the least amount of excess income. BEM 105 (October 2014), p. 2. Individuals who are disabled may be eligible for MA under an SSI-related category. BEM 105 (October 2014), p. 1. When a client indicates or demonstrates a disability and is not eligible for Retirement, Survivors and Disability Insurance (RSDI) income based on a disability or blindness, the client must provide evidence of the disability and the Department must proceed with a disability determination to be made by the Disability Determination Service (formerly the Medical Review Team (MRT)). BAM 115 (October 2015), p. 5; BAM 815 (July 2015), p. 1; BEM 260 (July 2015), p. 3.

In this case, by submitting an LTC application, Petitioner was alleging a disability. Therefore, the Department should have assessed his eligibility for SSI-related MA. In failing to do so, the Department did not act in accordance with Department policy.

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 denied Petitioner for all MA coverage without processing his application for eligibility for SSI-related MA.

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. Reregister and reprocess Petitioner's October 27, 2015 MA application with requested retroactive coverage to September 2015 to determine Petitioner's eligibility for SSI-related MA, including LTC benefits, for September 1, 2015 ongoing;

2. Provide Petitioner with MA coverage, including LTC benefits, he is eligible to receive, if any, for September 1, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/25/2016**

Date Mailed: **2/25/2016**

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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