



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: April 13, 2016  
MAHS Docket No.: 16-001777  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 April 7, 2016, 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 terminated Petitioner's Healthy Michigan Plan (HMP) eligibility due to excess income.

### **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 HMP recipient.
2. Petitioner's household included herself and spouse.
3. Petitioner's HMP eligibility was scheduled for redetermination beginning January 2015.
4. On an unspecified date, Petitioner submitted to MDHHS a biweekly pay stub listing \$690.00 in gross income.

5. On [REDACTED] MDHHS determined Petitioner to have excess income for HMP eligibility and terminated Petitioner's eligibility, effective March 2016.
6. On [REDACTED], Petitioner requested a hearing to dispute the termination of HMP eligibility.

### **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 at redetermination for HMP due to excess income. The notice also indicated Petitioner's income was calculated to be \$17,880.

MDHHS was unable to definitively state how Petitioner's income was calculated. Unrebutted MDHHS testimony indicated Petitioner presented only one pay stub (Exhibit 1, p. 3). The pay stub listed a gross income of \$690.00 for a 2 week period. MDHHS testimony suggested Petitioner's annual income was projected from the single pay stub.

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). For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603 (h)(2).

Multiplying Petitioner's gross pay from the 2 week period by 26 (to account for 52 weeks in a year) results in an annual income of \$17,940. The amount closely resembles the MDHHS calculated income for Petitioner. This consideration suggests that MDHHS fairly calculated Petitioner's annual income. As it happened, Petitioner also provided MDHHS with additional information on her Redetermination.

Petitioner wrote, "I only work when they need me... I might work 1 day a month – no days – haven't worked since 12/18/16." Petitioner's statement was indicative that her pay stub may not fairly represent her future income. Petitioner testimony noted that her pay stub lists a year-to-date income (\$7,506.10) which tends to verify the single stub is not an accurate representation of her annual income.

Petitioner's arguments would have been more compelling had she presented MDHHS with some alternative for calculating income. When only one pay stub is presented, MDHHS is left with little choice but to rely on the stub to project income. Petitioner's income clarification statements may have been consistent with her year-to-date income, but year-to-date income does not verify Petitioner's testimony. For example, it is plausible that Petitioner worked fewer hours earlier in the year, however, her ongoing income is regularly \$690 every two weeks. Based on petitioner's limited income verification submission, it is found MDHHS properly determined Petitioner's income.

Before the MDHHS determination can be affirmed, it must be verified that MDHHS used the proper income limit. The issue was not considered during the hearing, however, presented documents suggested that MDHHS used the improper income limit.

Presumably, MDHHS calculated Petitioner's income to be based on a 1-member HMP group; this presumption is based on income limit chart found on the Health Coverage Determination Notice. Only one income limit (the one for a 1-person group aged between 19-64) on the chart was below Petitioner's calculated income.

The size of the household will be determined by the principles of tax dependency in the majority of cases. BEM 211 (January 2016), p. 1. The household for a tax filer, who is not claimed as a tax dependent, consists of: individual, individual's spouse, [and] tax dependents.

During the hearing, Petitioner's MA group size was not established. MDHHS presented Petitioner's Redetermination (Exhibit 1, pp. 2-8). Petitioner listed that she lives in a household with her spouse. Had MDHHS factored Petitioner's spouse, a 2-person group income limit would have determined Petitioner's HMP eligibility. All 2-person HMP groups on the income limit chart have income limits more exceeding the calculated income of Petitioner.

It is plausible that MDHHS properly factored that Petitioner's spouse should not be included as part of Petitioner's group. Thus, it cannot be stated with certainty that MDHHS erred. It can be stated with certainty that MDHHS failed to establish that a 1

person HMP group was proper. MDHHS will be ordered to redetermine Petitioner's eligibility based on spouse being a member of the household (though not necessarily the benefit group).

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's HMP eligibility, effective March 2016. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's HMP eligibility, effective March 2016, based on Petitioner's reporting of a spouse within her household; and
- (2) issue any benefits improperly not issued

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

CG/hw



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**Christian Gardocki**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]