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 18, 2016
MAHS Docket No.: 16-002202
Agency No.: [redacted]
Petitioner: [redacted]

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, a telephone hearing was held on April 12, 2016, from Lansing, Michigan. The Petitioner, [redacted], appeared and testified. The Department of Health and Human Services (Department) was represented by Lead Worker, [redacted].

The following exhibits were offered and admitted into evidence:

Department: A--February 2, 2016, Health Care Coverage Determination Notice.
B--December 1, 2015, Semi-Annual Contract Report.
C--MAGI eligibility determination.
D--Verification of unemployment income.
E-- Unearned income budget summary.
F-- Unearned income before increase.
G-- 2015 Federal Poverty Limits.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) case 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. The Petitioner was an ongoing recipient of MA, specifically the Healthy Michigan Plan.

2. On February 2, 2016, the Department processed a semiannual contact report for Food Assistance Program benefits. The Petitioner reported an increase in unemployment income.

3. February 2, 2016, the Department sent the Petitioner a Health Care Coverage Determination Notice informing the Petitioner that she had excess income to be eligible for the MA/Healthy Michigan Plan.

4. February 16, 2016, the Department received the Petitioner's written hearing request protesting the closure of her MA case.

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.

The Department's MAGI Manual provides, in Chapter 7, p. 14, that modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Unemployment benefits are a source of income which is countable in a MAGI related determination.

MAGI Manual, Chapter 7, p. 15 provides for a 5% disregard to be applied to the Petitioner's MAGI budget *only if required to make someone eligible for* MA. The 5% disregard of the equal to 5% of the federal poverty level for the applicable family size. No evidence was introduced at the hearing to indicate whether or not this 5% disregard was applied to the Petitioner's case and whether or not that 5% disregard what had been sufficient to make the Petitioner eligible for MA. Indeed, this issue was not even

discussed at the hearing as the Administrative Law Judge only became aware of it when researching this issue.

The 5% disregard becomes important in this case, because a careful review of the evidence indicates that the Petitioner's monthly income is only $[redacted] over the limit to be eligible for MA. Furthermore, the Health Care Coverage Determination Notice in evidence reports the Petitioner's income as being $[redacted]. Yet, when this Administrative Law Judge calculates the annual income it is only $[redacted]. If the 5% disregard is sufficient to make the Petitioner eligible for MA, it should be applied.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to close the Petitioner's MA case.

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 eligibility for MA back to March 1, 2016, and

2. issue the Petitioner a new Health Care Coverage Determination Notice, and

3. the Petitioner retains the right to request a hearing on the new determination, and

4. issue the Petitioner any supplement she may thereafter be due.

Susanne E. Harris

SH/nr

Susanne E. Harris
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

Petitioner