



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 25, 2016  
MAHS Docket No.: 16-002217  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 18, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment Worker.

**ISSUE**

Did the Department properly close Petitioner's MA coverage due to excessive 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 MA recipient.
2. The Department obtained Petitioner's pay records from her Employer.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which advised Petitioner that her MA coverage would close effective [REDACTED].
4. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

### 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.

Additionally, 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; BEM 137 (January 2016), p. 1. 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.

In this case, the Department asserted that Petitioner was ineligible for HMP because she did not have an income at or below 133% of the FP. In support of its position, the Department obtained Petitioner's actual income from her Employer. Based upon Petitioner's December 2015 pay, the Department determined that Petitioner was over the income limit for the Healthy Michigan Plan. In calculating income, the Department is required to use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. Petitioner received \$1,902.89 on [REDACTED]; \$1,053.98 on [REDACTED] and \$1,239.20 on [REDACTED]

The pay Petitioner received on [REDACTED] is considerably higher than other two pays received in December. With exception of the pay received on [REDACTED], [REDACTED] the [REDACTED] pay is considerably higher than any other pay received in 2015. Additionally, a review of Petitioner's actual pay reveals that she does not typically receive three paychecks in one month. Lastly, a review of Petitioner's annual income in 2014 (\$24,470.68) and 2015 (\$22,001.74) demonstrates that Petitioner's annual income was significantly less than income limit amount of \$32,252.50. As such, it is found that

Petitioner's December 2015 income does not accurately reflect what is expected to be received in other benefit months.

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 failed to consider Petitioner's fluctuating income and closed her MA coverage effective [REDACTED].

**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. Reinstatement of Petitioner's MA coverage effective [REDACTED];
2. Issue supplement's Petitioner was eligible to receive but did not;
3. Redetermine Petitioner's eligibility for HMP consistent with this decision and disregarding any income that does not accurately reflect what is expected to be received in the benefit month; and
4. Notify Petitioner of its decision in writing.

JM/hw



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**Jacquelyn A. McClinton**

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]