



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: April 19, 2016
MAHS Docket No.: 16-002315
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 12, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly closes the Petitioner's 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. The Petitioner was an ongoing Medical Assistance (MA) recipient. Exhibit A, p 1.
2. On December 3, 2015, the Department received the Petitioner's application for State Emergency Relief (SER) benefits. Exhibit A, p 4.
3. On December 4, 2015, the Department sent the Petitioner a Verification Checklist (DHS-3503) requesting verification of income by December 14, 2015. Exhibit A, p 24.

4. The Petitioner reported to the Department that she received paychecks with gross earnings of \$ [REDACTED] on November 2, 2015, and \$ [REDACTED] on November 30, 2015. Exhibit A, p 30.
5. On December 7, 2015, the Department notified the Petitioner that it would close her Medical Assistance (MA) benefits effective January 1, 2016. Exhibit A, p 27.
6. The Petitioner has been an ongoing Part A and Part B Medicare recipient since July 1, 2014. Exhibit A, p 3.
7. On February 14, 2016, the Department received the Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) benefits. Exhibit A, p 1.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

A person is disabled when all of the following are true:

- She has a medically determined physical or mental impairment.
- Her impairment prevents him from engaging in any substantial gainful activity.
- Her impairment:
 - Can be expected to result in death, or
 - Has lasted at least 12 consecutive months, or
 - Is expected to last at least 12 consecutive months.

Substantial gainful activity means a person does all of the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 260 (July 1, 2015), p 10.

Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975).

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who do not qualify for or are not enrolled in Medicare. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2016), p 1.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

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. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5%

disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.¹

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

The Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) when she submitted an application for State Emergency Relief (SER) benefits. As a result of this application, the Department requested verification of her income for the previous 30 days. The Petitioner provided copies of her paycheck stubs for November of 2015. When the average of the Petitioner's bi-weekly paychecks is multiplied by the 2.15 conversion factor, the resulting gross monthly income of \$ [REDACTED] does not make her ineligible to receive HMP benefits after 5% of the federal poverty level is deducted from her earnings.

However, despite the fact that the Petitioner has been receiving HMP benefits, she is not eligible for MA benefits under that category as a Medicare recipient. BEM 137.

The Petitioner has been a Part A and Part B Medicare recipient since July 1, 2014, but does not receive any other social security benefits based on either age or disability. The Petitioner is apparently eligible to receive these benefits because she suffers from end-stage renal disease after working the required amount of time required by the Social Security Administration.

The Petitioner testified that she was hospitalized in June of 2014. The Petitioner's authorized representative applied for MA benefits on her behalf but did not indicate on the application that she is disabled. The Department approved the Petitioner for MA benefits under the HMP category and as a working person her income would have made her ineligible for State Disability Assistance (SDA) benefits if she had requested them. The Petitioner had no reason to pursue MA benefits based on disability because she was approved for HMP benefits.

On December 3, 2015, the Petitioner reported on her SER application that she is disabled.

However, there has been no finding of disability and the Department had no reason to believe that she meets the definition of being disabled. The Petitioner is employed and her gross monthly earnings of \$ [REDACTED] creates a presumption that she is capable of performing significant gainful activity despite her physical impairments.

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 acted in

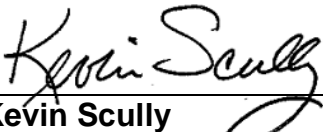
¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

accordance with Department policy when it closed the Petitioner's Medical Assistance (MA) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

KS/las



Kevin Scully
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]