



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 25, 2016
MAHS Docket No.: 16-002525
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 15, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing liaison.

ISSUE

The issue is whether MDHHS properly terminated Claimant's Healthy Michigan Plan (HMP) coverage.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing HMP benefit recipient.
2. Claimant was not eligible for any Medical Assistance (MA) category other than HMP benefits.
3. On an unspecified date, Petitioner submitted pay stubs listing gross pays of \$491.25 on [REDACTED] and \$540 on [REDACTED].
4. On [REDACTED], MDHHS terminated Petitioner's HMP eligibility, effective March 2015, due to excess income.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of HMP benefits (see Exhibit 1, pp. 2-3).

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 Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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).

Petitioner requested a hearing to dispute the termination of HMP benefits. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, p. 4 and p. 23). The notice indicated Petitioner was over-income for HMP eligibility.

MDHHS regulations provide no known instructions on how a client's income is to be calculated for purposes of HMP eligibility. Federal regulations provide slightly more guidance.

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).

As an ongoing HMP recipient, the latter policy citation applies to Petitioner. It is not known if Michigan elected to determine income based on projected income for the remainder of the year.

The presented Health Care Coverage Determination Notice verified Petitioner's income was calculated to be \$16,908. MDHHS presented a MAGI-Summary (Exhibit 1, p. 22) stating that Petitioner's income was calculated to be \$1,409.21/month as of [REDACTED], [REDACTED] MDHHS was unable to state how Petitioner's monthly or annual income was determined.

Income will be verified via electronic Federal data sources in compliance with MAGI methodology. MAGI (May 28, 2014), p. 1. Presumably, MDHHS obtained petitioner's income information from a federal data source.

Petitioner reported on her Redetermination (Exhibit 1, pp. 13-18) her income was \$15,600. MDHHS appeared to receive Petitioner's Redetermination on [REDACTED] [REDACTED] (based on an apparent fax date listed at the top of the Redetermination's pages). Petitioner's attested income fell below the HMP income limit.

If the group's attested income is below the income threshold for the program being tested but the trusted data source indicates income above the income threshold, then reasonable compatibility test is performed:

- If income is reasonable compatible, then the applicant is eligible
- If the income is not reasonable compatible, then the program pends and the individual is required to provide proof of attested income.

Id., p. 15.

Income that is "reasonable compatible" is not defined by federal regulations. Federal regulations provide guidance on what is not "reasonable compatible" income. Attested income will be found not reasonably compatible with income from trusted sources if the difference exceeds 10%. *Id.*, p. 15.

Petitioner's reported income was within 10% of the income determined by MDHHS. Thus, there is an argument to be made that Petitioner should be eligible because her reported income was reasonable compatible with MDHHS' source. For purposes of this decision, it will be found that Petitioner's reported income was not compatible. In such a circumstance, verifications dictate HMP eligibility.

The easiest method for calculating Petitioner's income would be simply to rely on Petitioner's actual 2015 gross income. A W-2 verified Petitioner's 2015 income to be \$15,657.75. Petitioner contended her W-2 over-stated her actual income because her boss included a net balance of \$30 for an unpaid loan in her annual income total. As it happens, that \$30 is the difference between HMP eligibility and ineligibility. Petitioner presented documents to support her testimony (the documents were not forwarded by MDHHS). Despite MDHHS' failure to forward the documents, it is not tempting to find that income listed on Petitioner's W-2 is an unfair misrepresentation of her 2015 income.

A past year's income is one source that may be used to prospect current income. A more reliable method for calculating current eligibility would be to prospect recently received income.

MDHHS presented various biweekly Petitioner pay stubs (Exhibit 1, pp. 8-11). Gross pay amounts for the following dates were verified: \$491.25 on [REDACTED], \$540 on [REDACTED], \$742.50 on [REDACTED], and \$517.50 on [REDACTED].

Neither federal regulations nor MDHHS policy prescribe how a client's income is to be calculated for purposes of HMP eligibility. In lieu of specific instruction, MDHHS policy for calculating income for Family Independence Program, Food Assistance Program, State Disability Assistance, and other programs will be adopted.

[MDHHS is] to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505 (July 2014), p. 7. [MDHHS is to] multiply amounts received every two weeks by 2.15. *Id.*, p. 8.

It is known MDHHS determined Petitioner's income eligibility for HMP on [REDACTED]. As of [REDACTED], Petitioner's most current and known pays were from [REDACTED] and [REDACTED]. The average biweekly pay from those pay amounts is \$515.62. Converting the fluctuating biweekly average pay to a 30 day period results in a monthly income of \$1,108 (dropping cents). Multiplying the monthly income by 12 results in an annual income of \$13,296. It is found Petitioner's annual income should have been calculated to be \$13,296.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The federal poverty level is \$11,770 for a one-person group. To be income-eligible for HMP benefits, Petitioner's income would have to fall at or below \$15,654.10; Petitioner's verified income indeed falls below the income limit. Accordingly, it is found that MDHHS improperly terminated Claimant's HMP eligibility due to excess income.

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. 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 as of [REDACTED] based on an annual income of \$13,296; and
- (2) Issue any benefits improperly not issued.

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

CG/hw



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]