



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 8, 2016
MAHS Docket No.: 16-002583
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 30, 2016, from Lansing, Michigan. Petitioner appeared and represented himself. [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager/Hearings Coordinator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly determine Petitioner's income eligibility for 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. On June 16, 2015, Petitioner submitted an online application for MA or Health Care Coverage. [Exhibit 1, pp. 5-29].
2. Petitioner has a tax group size of 2.
3. Petitioner indicated on the application that he and his spouse each had \$0 in monthly income. [Exh. 1, pp. 9-10].
4. Based on Petitioner's report of no income, the Department determined he was income eligible and approved his application for MA benefits through the Health Michigan Plan (HMP).

5. The Department later discovered via a computer cross-match with other agencies that Petitioner may have been employed.
6. On January 29, 2016, the Department mailed Petitioner a New Hire Client Notice (DHS-4635) which requested that he complete the form concerning possible employment with [REDACTED], and return the form to the Department by February 8, 2016. [Exh. 1, pp. 30-31].
7. On February 5, 2015, the Department received via facsimile the following documents:
 - a. A fax cover sheet to [REDACTED] which indicated Petitioner had a seasonal job at [REDACTED] works an average of [REDACTED] hours per week and is paid biweekly. The letter also noted, "\$ [REDACTED] per hour commission is paid on the number of persons he finds with invalid passes or no pass. **He is still self-employed** but has not driven since mid-December. Winter trucking very slow." [Exh. 1, p. 32]. [Emphasis added].
 - b. A completed New Hire Client Notice (DHS-4635) form. Under the section entitled, "Type of Employment" Petitioner indicated "Seasonal" and "Self Employment" was left blank. [Exh. 1, p. 34].
 - c. A copy of two paystub that showed Petitioner worked at [REDACTED] and a handwritten note which indicated, "Part-time seasonal work every two weeks." The first paystub indicated Petitioner had gross pay of \$ [REDACTED] for [REDACTED] hours worked from pay period December 23, 2015 to January 5, 2016. The second paystub showed gross pay of \$ [REDACTED] for [REDACTED] hours worked from January 6, 2016 to January 19, 2016. [Exh. 1, pp. 37-38].
8. On February 11, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606) which indicated that Petitioner was not eligible for HMP benefits because his countable income exceeded the income limit for his group size. The DHS-1606 indicated that the income limits for a household size of 2 (between age 19 to 64) is \$ [REDACTED] and listed Petitioner's annual income as \$ [REDACTED] [Exh. 1, pp. 40-43].
9. On February 17, 2016, Petitioner requested a hearing to dispute the closure of his MA-HMP case. [Exh. 1, p. 4].

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 Healthy Michigan Plan (HMP) provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (1-1-2016), p. 1. For HMP, the income limit for adults age 19-64 is 133 percent of the federal poverty limit. HMP is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137, p. 1.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. BEM 500 (1-1-2016), pp. 3-4.

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. BEM 500, p. 4.

Department policy provides that for all programs except Children Under 19, the Department must verify all non-excluded income: (1) at application, including a program add, prior to authorizing benefits; (2) at member add, only the income of the member being added; (3) at redetermination; and (4) when program policy requires a change be budgeted. BEM 500, p. 13.

For MA, the Department routinely matches recipient data with other agencies through automated computer data exchanges. Information provided with DHS applications informs clients of the data exchange process. New Hires is a daily data exchange with Michigan Department of Treasury. New Hires information is used to determine current income sources for active DHS clients. BAM 807, p 1 (1-1-2016).

The New Hire database is established from W-4 tax records submitted to Michigan Department of Treasury by employers. Michigan employers are required to report all new employees to Treasury within 20 days of the date of hire. The New Hires process matches the Social Security number (SSN) for all active recipients to the database. If a SSN match is found on Bridges and the New Hires database, a New Hires match is created if there is no earned income reflected in Bridges. Specialists receive one task and reminder listing all the matches for the previous week each Monday. The task and reminder is removed when all matches have been disposed. BAM 807, p 1.

When income verification is returned, make the appropriate changes in Bridges, then run eligibility determination benefit calculation (EDBC) to reduce or close the benefits. BAM 807, p. 2.

In the instant matter, Petitioner requested a hearing because he believes the Department did not properly calculate his annual income for purposes of HMP eligibility. Petitioner contends that he was self-employed and that his income is well below the Department's calculations. During the pre-hearing conference, Petitioner offered several documents to show that his adjustable gross income is closer to \$ [REDACTED]. The Department, on the other hand, contends that Petitioner did not clearly indicate on his application or on his new hire verifications that he was self-employed. Plus, the Department adds, Petitioner's spouse receives unearned income in the amount of \$ [REDACTED] per month from Retirement, Survivors, Disability, Insurance (RSDI) that was not properly budgeted.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department is correct that Petitioner failed to indicate anywhere in his application that he was self-employed. [Exh. 1, pp. 5-29]. However, the Department did not request Petitioner submit verification of his income at application, which is required under BAM 500, page 13. Then, the Department missed the fact that Petitioner reported that he was self-employed on February 5, 2016 when it received the fax cover sheet attached to the paystubs which indicated he was still self-employed. [Exh. 1, p. 32]. This should have triggered the Department to further explore Petitioner's income for purposes of HMP eligibility. Although Petitioner mistakenly indicated that his employment type was "seasonal" rather than "self-employment" the Department was sufficiently on notice that he may have been self-employed. In addition, the Department also indicates that Petitioner's spouse may have some unearned income from RSDI that was only later discovered at the pre-hearing conference. This is further evidence that Petitioner's income was not sufficiently vetted.

This Administrative Law Judge cannot determine whether the Department properly calculated Petitioner's MA-HMP income eligibility because the Department failed to obtain verify all household income at the application. In fact, the Department failed to include a notice or budget in the evidence packet to explain how Petitioner was income eligible for MA-HMP benefits at the onset. This Administrative Law Judge does not find that the Department's calculations concerning Petitioner's earned income are

necessarily incorrect, but there is evidence that the Department did not receive all necessary income information in order to properly determine MA-HMP eligibility. The undersigned also does not find that Petitioner is income eligible for MA-HMP. However, the Department failed to obtain proper verification at the time of initial eligibility and at the time the new hire client notice was forwarded. In this regard, the Department did not comply with BAM 500, p. 13.

Accordingly, this Administrative Law Judge finds the Department did not properly determine Petitioner's eligibility for MA-HMP benefits because Petitioner's income at the time the application was processed and later after Petitioner notified the Department that he was self-employed. See also BEM 502.

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 closed Petitioner's MA-HMP case due to excess income.

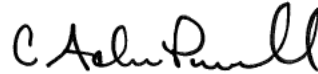
DECISION AND ORDER

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. The Department shall initiate a redetermination of Petitioner's eligibility for MA benefits back to the date of closure.
2. With regard to employment, the Department shall determine the type of employment, including but not limited to whether he was self-employed. [See BEM 502].
3. The Department shall initiate a redetermination as to whether Petitioner is entitled to retroactive and/or supplemental MA benefits to the extent permissible under applicable policies.
4. The Department shall provide Petitioner with written notification of its decision.

IT IS SO ORDERED.



CP/las

C. Adam Purnell
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

Petitioner



DHHS

