



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 6, 2016
MAHS Docket No.: 16-002718
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

PROCEDURAL HISTORY

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, an in-person hearing was held on March 23, 2016, from Atlanta, Michigan. The Petitioner, [REDACTED], appeared and testified with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Eligibility Specialist, Diane Barbeau.

At the onset of the hearing, the Petitioner suggested that his case be consolidated with that of his wife, [REDACTED], because both cases involved the issue of excess income to be eligible for Medical Assistance (MA). The Department did not object and this Administrative Law Judge did therefore consolidate the instant hearing with that of Shelly Olree, register number 16-002480. The following exhibits were offered and admitted into evidence:

Department:

- A--December 23, 2015, DHS-1606, Health Care Coverage Determination Notice.
- B--2014, 1040, U. S. Individual Income Tax Return.
- C--February 4, 2016, Assistance Application.
- D--November 16, 2015, DHS-1010, Redetermination.
- E--2014, Schedule C, Profit or Loss From Business.
- F-- December 21, 2015, the Petitioner's report of assets and income.
- G-- February 1, 2016, Federally Facilitated Marketplace Application Transfer.
- H-- Eligibility Summary.
- I-- March 10, 2016, DHS-1606, Health Care Coverage Determination Notice.
- J-- Medicaid Eligibility computer screen printout.

ISSUE

Did the Department properly determine that the Petitioners had excess income to be eligible for MA?

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, [REDACTED], was an ongoing recipient of Healthy Michigan Plan (HMP) benefits.
2. On November 30, 2015, the DHS-1010, Redetermination filed reported the Petitioner's wife had started receiving RSDI benefits in the amount of \$800 per month.
3. On December 21, 2015, the Department received the Petitioner's 2014, Schedule C indicating a profit of \$24,938.
4. On December 23, 2015, the Department sent the Petitioners DHS-1606, Health Care Coverage Determination Notice informing the Petitioners that they were not eligible for MA assistance. There was no specific reason given as to why they were not eligible for MA assistance; however, the notice indicated that in the case of David Olree, \$24,936 was considered as annual income and in the case of Shelly Olree, \$10,092 was considered as annual income. The income limit on the table contained in the notice, for group members between the ages 19 to 64, is reflected at \$26,719.70 for a group size of three. The Petitioners have a minor son.
5. February 1, 2016, the Petitioners submitted a Marketplace Application Transfer.
6. February 24, 2016, the Department received the Petitioners written hearing request protesting the closure of their MA case.
7. On March 8, 2016, the Department sent the Petitioners a DHS-1606, Health Care Coverage Determination Notice informing the Petitioners that they were eligible for MA with a monthly deductible of \$1039. This notice also indicates that the Petitioners had excess income to be eligible for HMP.

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, Bridges Eligibility Manual (BEM) 105 (2014) pp. 1, 2, provides that the MA program is comprised of several sub-programs or categories. To receive MA under an SSI-related category, a person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Healthy Michigan Program is based on Modified Adjusted Growth Income (MAGI) methodology. Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. P. 5, provides that an ex parte review is required before MA closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all MA.

BEM 502 p. 7, provides that a Schedule C, Profit or Loss From Business is the primary source of verification of self-employment income. This form is generally used in conjunction with IRS form 1040, 1040NR or 1041. Schedule C is acceptable *even if not yet filed with the IRS*.

In this case, the Petitioners are protesting the closure of their HMP case. The Department did use the Petitioner's Schedule C from 2014 to determine ongoing eligibility into 2016. Based on the DHS-1606, Health Care Coverage Determination Notice in the record, this Administrative Law Judge is not persuaded that the evidence establishes that the Petitioners have excess income to be eligible for HMP. See Finding of Fact 4. What is curious is that though it is alleged that the Petitioners had excess income to be eligible for HMP, per the Department's testimony, it does not appear that the Petitioners eligibility was considered for other MA categories such as group 2.

One month after the Petitioners case closed, the Petitioners were found to be eligible for MA with a deductible of \$1039. During the hearing, it was asked why it is that the Petitioners were not eligible for MA with a deductible for the month of February, 2016. The Department could not answer this question. The Administrative Law Judge concludes that MA with a deductible is more beneficial to the Petitioners than no MA at all. As such, and based on the policy provisions cited above, group 2 eligibility should have been considered before closure of the Petitioner's MA case.

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 determined that the Petitioners had excess income to be eligible for MA.

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 eligibility for all MA categories back to December 1, 2015, and
2. issue a new DHS-1606, Health Care Coverage Determination Notice, and
3. the Petitioners retain the right to request a hearing on the Department's new determination, and
4. issue a bridges helpdesk ticket, if necessary to promptly effectuate this order.



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

Kim Lauterwasser
13210 M-33
Atlanta, MI
49709

Montmorency County DHHS- via
electronic mail

BSC1- via electronic mail

M. Best- via electronic mail

EQAD- via electronic mail

Petitioner

