



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2016
MAHS Docket No.: 16-003458
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 28, 2016, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Assistance Payments Supervisor [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 - 20 was admitted into evidence. The record was left open in order to provide the Department the opportunity to provide authority for their calculation of Petitioner's income. Department's Exhibit B, pages 1 - 6 was received, and admitted into evidence on May 4, 2016.

ISSUE

Did the Department properly deny Petitioner's February 16, 2016, Medical Assistance (MA) application?

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 February 16, 2016, Petitioner submitted an online Medical Assistance (MA) application.
2. On February 26, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (DHS-1606) which stated Petitioner was not eligible for Medical Assistance (MA). The notice stated that his annual income was \$ [REDACTED] and that exceeds the income limit for the Healthy Michigan Plan.

3. On March 7, 2016, Petitioner submitted a hearing request.

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 Department has the initial burden of going forward with evidence to show that their eligibility determination is correct. In this case the Department obtained verification of Petitioner's current income from Unemployment Compensation Benefits and rental income, entered the data into the BRIDGES computer program and BRIDGES issued a Health Care Coverage Determination Notice (DHS-1606) stating Petitioner was not eligible because his annual income was \$ [REDACTED] and that exceeds the income limit for the Healthy Michigan Plan.

42 CFR 435.603 provides:

§ 435.603 Application of modified adjusted gross income (MAGI).

(a) Basis, scope, and implementation.

(1) This section implements section 1902(e)(14) of the Act.

(2) Effective January 1, 2014, the agency must apply the financial methodologies set forth in this section in determining the financial eligibility of all individuals for Medicaid, except for individuals identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.

(3) In the case of determining ongoing eligibility for beneficiaries determined eligible for Medicaid coverage to begin on or before December 31, 2013, application of the financial methodologies set forth in this section will not be applied until March 31, 2014 or the next regularly-scheduled renewal of eligibility for such individual under § 435.916 of this part, whichever is later.

(c) *Basic rule.* Except as specified in paragraph (i) and (j) of this section, the agency must determine financial eligibility for Medicaid based on "household income" as defined in paragraph (d) of this section.

(d) Household income—(1) General rule.

Except as provided in paragraphs (d)(2) and (d)(3) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, 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.

(e) *MAGI-based income*. For the purposes of this section, MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.

Income eligibility for the Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. Bridges Eligibility Manual (BEM) 137 Healthy Michigan Plan (1/1/2016) In accordance with the Modified Adjusted Gross Income Related Eligibility Manual (May 28, 2014):

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.

The Department submitted a MAGI Eligibility Determination printout (Department's Exhibit A page 23). The printout lists monthly income amounts for Petitioner's Unemployment Compensation Benefits and rental income. However, the printout also shows that his "MAGI Income Total Amount (Annually)" is \$0.00.

The Department was asked how they were able to project Petitioner's MAGI from his unearned income from Unemployment Compensation Benefits and rental income. This is just one of many hearings conducted by this Administrative Law Judge where the Department has obtained income verifications, then calculated a gross income amount and substituted that gross income amount for an applicant or recipient's MAGI.

In this case the Department submitted additional evidence purported to be the authority for substituting a gross income amount for an applicant or recipient's MAGI. The Department has submitted pages from the approved State Medicaid Plan Amendment for MAGI based income methodologies (Department Exhibit B page 4). The first sentence is "The state will apply Modified Adjusted Gross Income (MAGI) based methodologies as described below, and consistent with 42 CFR 435.603." The approved amendment goes on to state:

Financial eligibility is determined consistent with the following provisions:

When determining eligibility for new applicants, financial eligibility is based on current monthly income and family size.

When determining eligibility for current beneficiaries, financial eligibility is based on:

Projected annual household income and family size for the remaining months of the current calendar year.

In determining current monthly or projected annual income, the state will use reasonable methods to:

Include a prorated portion of a reasonably predictable increase in future income and/or family size.

Account for a reasonably predictable decrease in future income and/or family size.

Except as provided at 42 CFR 435.603(d)(2) through (d)(4), household income is the sum of the MAGI based income of every individual included in the individual's household.

The amendment was approved by the federal Department of Health and Human Services on January 29, 2014. It would be absurd to assume the federal government would approve the amendment if it was to be interpreted as contradictory to the 42 CFR 435.603. The plain language of the approved amendment provides for use of "current monthly income and family size" for determining the financial eligibility of new applicants. The amendment also provides for use of "projected annual household income and family size" for determining the financial eligibility of current beneficiaries.

It also reiterates that "household income is the sum of the MAGI based income of every individual included in the individual's household". Principles of statutory interpretation include a presumption that a statute will be interpreted so as to be internally consistent. In other words, a particular section of the statute shall not be divorced from the rest of the act.

There are no legal or logical principles that lead to an interpretation of the approved amendment, as a license to ignore 42 CFR 435.603. Neither are there any sections of the Department's policy manuals that direct the substitution of a gross annual income calculation amount for an applicant or recipient's MAGI.

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 denied Petitioner's February 16, 2016, Medical Assistance (MA) application.

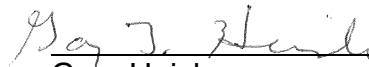
DECISION AND ORDER

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. Reregister Petitioner's February 16, 2016, Medical Assistance (MA) application and process in accordance with Department policy to include issuing a Health Care Coverage Determination Notice (DHS-1606) of the re-determined eligibility.

GH/nr



Gary Heisler
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]

Petitioner

[REDACTED]