



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: July 11, 2016
MAHS Docket No.: 16-006237
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. A hearing was scheduled for June 8, 2016, and the Petitioner's hearing request was dismissed on June 9, 2016, when she failed to appear at the hearing. On June 21, 2016, the dismissal order was vacated and the hearing was rescheduled. After due notice, telephone hearing was held on July 06, 2016, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] (Hearing Facilitator).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Petitioner's eligibility for Medical Assistance (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 is an ongoing recipient of Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. The Petitioner is disabled and enrolled in Medicare. Exhibit A, p 18.
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 19.
4. The Petitioner's husband receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] Exhibit A, p 14.

5. The Petitioner's daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 22.
6. On March 15, 2016, the Department notified the Petitioner that she was no longer eligible for Medical Assistance (MA) as of April 1, 2016. Exhibit A, p 2.
7. On March 15, 2016, the Department notified the Petitioner that she is eligible for Medical Assistance (MA) under the Freedom to Work (FTW) category and her husband is eligible under the Group 2 Caretaker (G2C) category. Exhibit A, pp 28 – 36.
8. The Petitioner is not eligible to receive Freedom to Work (FTW) benefits and the Department placed her in the Group 2 Caretaker category of Medical Assistance (MA) effective April 1, 2016. Exhibit A, pp 37 – 38.
9. The Petitioner's daughter is enrolled in the Healthy Kids category of Medical Assistance (MA). Exhibit A, pp 37 – 38.
10. On May 3, 2016, the Department received the Petitioner's request for a hearing.

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.

The Petitioner is an ongoing recipient of MA benefits. The Petitioner is disabled and received Medicare benefits. The Petitioner receives monthly RSDI benefits in the gross monthly amount of \$[REDACTED]. The Petitioner's daughter receives RSDI benefits in the gross monthly amount of \$[REDACTED]. The Petitioner's husband receives earned income from employment in the gross monthly amount of \$[REDACTED] which was determined by multiplying the average of his gross earnings of \$[REDACTED] on March 18, 2016, \$[REDACTED] of March 11, 2016, \$[REDACTED] on March 4, 2016, and \$[REDACTED] on February 26, 2016, by the 4.3 monthly conversion factor.

The Petitioner is not eligible for MA benefits under the Healthy Michigan Program (HMP) as a Medicare eligible individual, and the Petitioner's husband is not eligible because his income exceeds 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1. The monthly income limit to receive HMP benefits as a group of three is \$[REDACTED]. The Petitioner's husband received a gross annual of income in 2015 of \$[REDACTED] and the annual income limit to receive HMP benefits is \$[REDACTED]. When the Petitioner's RSDI benefits are combined with her husband's earned income, he is not eligible for HMP benefits based on this group income.

The limit to receive "full Medicaid" as a group of two with no deductible is \$[REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 242 (April 1, 2016), p 1.

As the caretakers of a minor child, the Petitioner and her husband are eligible for MA benefits as caretaker relatives.

A review of Petitioner's case reveals that the Department budgeted correct amount of income received by the Petitioner and her husband. Petitioner's "protected income level" is \$[REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$[REDACTED] deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department

of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 2-3.

The Department considered the Petitioner's eligibility for MSP benefits as a group of two consisting herself and her husband. The gross monthly income limit to receive MSP benefits under any category is \$ [REDACTED] RFT 240, p 3. Therefore, based on her circumstances on April 1, 2015, the Department properly determined that she is not eligible for MSP benefits based on her household income.

The Petitioner argued that her husband's income is variable because his hourly pay varies depending on his work site location. The Petitioner is also laid off from his employment frequently.

The evidence provided by the Department indicates that gross income was determined from the actual earnings received by the Petitioner's husband and not by multiplying an hourly rate of pay by the number of hours worked. The payroll records used by the Department confirms that the Petitioner's husband receives a rate of pay that changes over time. The evidence also indicates that the Department applied actual gross income over a 30 day period using the formulas listed in BEM 505 to establish prospective income towards the group's eligibility for ongoing benefits.

From February 1, 2016, through March 31, 2016, the Petitioner received MA under the FTW category due to Department error when her husband's income was considered to be received by her. The evidence supports a finding that the Department correctly placed her in the G2C category after discovering this error.

The Petitioner argued that her caseworker has refused to respond when she reports medical expenses incurred and changes to her husband's earned income. The Petitioner failed to establish specific instances when she reported changes to her circumstances that the Department failed to act upon.

Furthermore, it is not within the jurisdiction of the Michigan Administrative Hearing System to make a determination as to whether the Petitioner's caseworker is performing his duties as required by the Department. A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

The Petitioner indicated on her request for a hearing that she was also protesting the Food Assistance Program (FAP), but on the record during the hearing the Petitioner testified that she was no longer protesting the reduction of these benefits.

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 accordance with Department policy when it determined the Petitioner's eligibility for Medical Assistance (MA) and Medicare Savings Program (MSP) 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]