



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: September 1, 2016  
MAHS Docket No.: 16-008984  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

### **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 August 8, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's children's eligibility for 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. Petitioner's children were recipients of MA benefits.
2. On [REDACTED], Petitioner submitted a Redetermination to the Department.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that her children were not eligible for MA benefits because the household exceeded the allowable income limit.
4. On [REDACTED], Petitioner submitted her husband's most recent pay stubs to the Department.

5. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

### 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.

MIChild is a FIP-related Medicaid Expansion program for children who are under 19 years of age (U-19) and who have no other health coverage. MIChild income eligibility is determined according to the rules of the Modified Adjusted Gross Income (MAGI) formula. MIChild income eligibility for children aged 0-1 year ranges from 195-212 per cent of the Federal Poverty Level (FPL). MIChild income eligibility for children 1 through 18 years of age ranges from 160-212 percent of the FPL. BEM 130 (January 2016), p. 1.

In this case, Petitioner submitted a Redetermination on [REDACTED]. On [REDACTED], [REDACTED] Petitioner submitted her husband's paystubs for [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Based upon the paystubs submitted, the Department determined Petitioner's household income to be [REDACTED]. The Department confirmed that the maximum allowable income for MI Child is [REDACTED].

Petitioner testified that her husband has never earned more than [REDACTED]. Petitioner testified that in 2014, her husband earned [REDACTED] and in 2015, her husband earned [REDACTED]. The paystubs submitted revealed that Petitioner's husband earned [REDACTED] as of [REDACTED]. Petitioner testified that her husband's income significantly decreases in the winter months and as such, he will make less in the later months of the year. It appears that Petitioner's husband's income fluctuates with the seasons.

Prospecting income means arriving at a best estimate of the per-son's income. Prospect income when you are estimating income to be received in a processing or future month. Your best estimate may not be the exact amount of income received. Some of the reasons income fluctuates is because:

- The number of hours worked in a month may fluctuate.
- The amount of tips may vary from payday to payday.

Under Department policy, the following guidelines for prospecting income are to be used:

- For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings.
- Paystubs showing year-to-date earnings and frequency of pay are usually as good as multiple paystubs to verify income.
- A certain number of paystubs is not required to verify income. If even one paystub reflects the hours and wages indicated on the application, that is sufficient information.
- If a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs... BEM 530 (January 2014), pp. 3-4.

Petitioner provided paystubs showing year-to-date pay information. Given that Petitioner's husband's income decreases in the later months and his income was just about one half of the income limit, it is likely that Petitioner's husband will not exceed the income limit for MiChild. It should be noted that Petitioner did not submit the paystubs until [REDACTED]. The Health Care Coverage Determination Notice was submitted on [REDACTED]. As such, it is unclear what income the Department used in determining Petitioner's eligibility for MA benefits. Accordingly, it is found that the Department failed to establish that Petitioner's group exceeded the income limit for MA 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 did not act in accordance with Department policy when it determined that Petitioner exceeded the income limit for MA benefits.

### **DECISION AND ORDER**

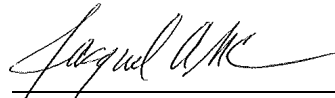
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's eligibility for MA benefits effective [REDACTED] using prospecting income;

2. Issue supplements Petitioner was eligibility to receive but did not effective [REDACTED] and [REDACTED]
3. Notify Petitioner in writing of its decision.

JM/hw



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**Jacquelyn A. McClinton**  
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]