



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 2, 2016
MAHS Docket No.: 16-010178
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 22, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case?

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 May 11, 2016, Petitioner submitted an application for MA benefits. (Exhibit A)
2. A review of the MA application indicates that Petitioner reported: being 50 years old; that she is not disabled; that she is not the caretaker of any minor children; and that she does not claim any other person as a tax dependent. (Exhibit A)
3. As of the application date, Petitioner was not employed and not receiving any income.

4. On May 21, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing her that she was approved for full coverage MA benefits for the period of May 1, 2016, ongoing. (Exhibit B)
5. Petitioner was approved for MA under the Healthy Michigan Plan (HMP).
6. On or around June 2, 2016, Petitioner reported that she started receiving unemployment compensation benefits (UCB).
7. The Unemployment Compensation Search indicates that Petitioner's first UCB payment was [REDACTED] and that it was paid on [REDACTED]. It further indicates that Petitioner was paid [REDACTED] on [REDACTED] and that Petitioner had 17 weeks remaining, however, no other payment information or pay dates are referenced. (Exhibit D)
8. On June 27, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective August 1, 2016, Petitioner was ineligible for MA on the basis that her income exceeds the limit. The annual income as determined by the Department and as reflected on the Notice is [REDACTED]. (Exhibit C)
9. On July 15, 2016, Petitioner submitted a hearing request disputing the denial of her ongoing MA benefits and indicated on the appeal request that she is disabled.

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.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. The Department explained that after processing Petitioner's reported change of receipt of UCB, it determined that she had excess income and thus ineligible for HMP MA coverage.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (January 2016), p. 1.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2016), p. 1.

Petitioner, who is under age 64, not disabled, and not the caretaker of any minor children is potentially eligible for MA under the HMP. An individual is eligible for HMP if his household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Petitioner's household size for MAGI purposes is one. 133% of the annual FPL in 2016 for a household with one member is \$15,800. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$15,800.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (January 2016), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year."

The Department stated that it relied on the information contained in the Unemployment Compensation Search to calculate Petitioner's projected annual income. Specifically, the Department stated that it considered biweekly UCB payments of [REDACTED]. The Department testified that according to the Unemployment Compensation Search, Petitioner had 17 weeks remaining for her approved receipt of UCB; however, the Unemployment Compensation Search is not an accurate reflection of Petitioner's income as the income was not expected to continue. Thus, the Department should not have relied on the information to project Petitioner's annual income. Furthermore, the Unemployment Compensation Search provided for review by the Department only indicates two payments of UCB benefits, thus, the Department's testimony that Petitioner continued to receive [REDACTED] in biweekly UCB was unsupported by the documents presented and it was established during the hearing that Petitioner only

received UCB from May 28, 2016, through July 31, 2016. Based on the evidence presented and relied upon by the Department, the Department has failed to establish that Petitioner's income was in excess of the limit for HMP MA purposes.

In addition, the Department did not establish that it conducted an ex parte review to determine Petitioner's eligibility for all MA categories prior to the closure of her HMP case effective August 1, 2016. See BAM 210 (January 2016), p. 1. Although Petitioner alleged at the hearing that she was disabled based on her diabetes diagnosis and other medical conditions, Petitioner confirmed that she did not notify the Department of her alleged disability prior to submitting her request for hearing and that on the MA application, she indicated she was not disabled.

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 case effective August 1, 2016.

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. Reinstate Petitioner's MA case effective August 1, 2016;
2. Reprocess Petitioner's MA eligibility from August 1, 2016, ongoing,
3. Provide Petitioner with MA coverage under the most beneficial category from August 1, 2016, ongoing, in accordance with Department policy;

4. Supplement Petitioner and her provider for any eligible missed MA benefits from August 1, 2016, ongoing; and
5. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun

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]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]