



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 26, 2016
MAHS Docket No.: 16-010290
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. After due notice, telephone hearing was held on September 6, 2016, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly denied Petitioner's application 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 Department received Petitioner's application for Medical Assistance (MA) on June 15, 2016. Exhibit A, pp 9-21.
2. Petitioner's household consists of herself, her husband, her daughter, and her grandson. Exhibit A, pp 14-15.
3. Petitioner and her husband file their income tax return jointly and do not claim their daughter or grandson as tax dependents. Exhibit A, pp 14-15.
4. The Petitioner's husband receives monthly pension income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 51.

5. Petitioner reported receiving ordinary business income from an S-Corporation of \$ [REDACTED] for the 2015 tax year. Exhibit A, p 24.
6. Petitioner reported an adjusted gross income of \$ [REDACTED] on Form 1040 of her 2015 Federal Income Tax Return. Exhibit A, p 51.
7. On June 27, 2016, the Department notified Petitioner that it had denied her application for Medical Assistance (MA) based on her income. Exhibit A, pp 4-8.
8. On July 26, 2016, the Department received Petitioner's request for a hearing protesting the denial of her Medical Assistance (MA) application. Exhibit A, pp 2-3.

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.

Money received from an S-Corp or LLC, is **unearned** income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2016), p 29.

The size of the household will be determined by the principles of tax dependency in the majority of cases. The household for a tax filer, who is not claimed as a tax dependent, consists of the individual, the individual's spouse, and any tax dependents.¹

Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2016), p 3. The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

Federal regulations require that income requirements for Medicaid eligibility be based on the benefit group's Modified Adjusted Gross Income (MAGI).

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, p 12. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

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.

* * *

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.

42 CFR 435.603.

The Internal Revenue Code provides in part:

- (1) Household income means the sum of
 - (i) A taxpayer's modified adjusted gross income (including the modified adjusted gross income of a child for whom an election under section 1(g)(7) is made for the taxable year);
 - (ii) The aggregate modified adjusted gross income of all other individuals who –
 - A. Are included in the taxpayer's family under paragraph (d) of this section; and
 - B. Are required to file a return of tax imposed by section 1 for the taxable year.
- (2) Modified adjusted gross income. Modified adjusted gross income means adjusted gross income (within the meaning of section 62) increased by -
 - (i) Amounts excluded from gross income under section 911;
 - (ii) Tax-exempt interest the taxpayer receives or accrues during the taxable year; and
 - (iii) Social security benefits (within the meaning of section 86(d)) not included in gross income under section 86.

26 CFR 1.36B-1

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. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid. MAGI Manual, pp 14-15.

Household income is the sum of the MAGI-based income 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. 42 CFR 435.603.

On June 15, 2016, the Department received Petitioner's application for MA benefits and it considered her eligibility under the HMP category as a group of two because she lives with her husband and does not claim her adult daughter or grandson as tax dependents. On June 27, 2016, the Department denied Petitioner's MA application based on the income she and her husband reported on their application.

Petitioner's husband, a member of her benefit group, received monthly pension income in the gross monthly amount of \$ [REDACTED] which was determined by dividing the annual pension income reported to the IRS in the amount of \$ [REDACTED] by 12 months.

The Department determined that Petitioner and her husband each receive income from their S-Corporation in the monthly amount of \$ [REDACTED]. Petitioner and her husband reported annual ordinary business income from their S-Corporation of \$ [REDACTED]. If this ordinary business income is divided by 12 months, then split between Petitioner and her husband, each of them would be attributed with \$ [REDACTED] of monthly countable income.

If Petitioner's benefit group is attributed with S-Corporation income of \$ [REDACTED] of S-Corporation for Petitioner and her husband each, combined with \$ [REDACTED] of monthly pension income, the total monthly countable income of \$ [REDACTED] is 175% of the federal poverty level. The Department's eligibility determination also included monthly rental income of \$ [REDACTED] which Petitioner disputes, but the group would not be eligible for HMP benefits even if the rental income is excluded based on the above countable income.

However, BEM 503 is not a policy for determining MAGI income, but is intended for determining countable unearned income for non-MAGI program eligibility. Eligibility for HMP benefits is based on MAGI income.

MAGI for purposes of Medicaid eligibility is a methodology, which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to

determine **adjusted gross income**. It eliminates asset tests and special deductions or disregards. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Petitioner applied for Medical Assistance (MA) and provided a copy of her income tax return for the 2015 tax year as verification of her countable income. This tax form indicates that she reported to the IRS an annual **adjusted gross income** of \$ [REDACTED] on line 37 of Form 1040 of her 2015 tax return. The hearing record does not include any evidence that Petitioner received any non-taxable social security benefits, tax-exempt interest, or excluded foreign income. Therefore, the hearing record supports a finding that Petitioner's countable MAGI income is equal to her **adjusted gross income**, which is less than 133% of the federal poverty level.

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 denied Petitioner's June 15, 2016, application for Medical Assistance (MA) under the Health Michigan Plan (HMP).

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:

Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) based on Petitioner's June 15, 2016, application for assistance in accordance with policy with adequate notice to the Petitioner. In addition, allow Petitioner a ten-day period to provide verification necessary to clarify the nature and amount of any rental income that is continuing income for the benefit group.

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]