



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 13, 2016
MAHS Docket No.: 16-010494
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 September 1, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) – Healthy Michigan Plan (HMP) coverage effective August 1, 2016?

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 was an ongoing recipient of HMP benefits.
2. On [REDACTED], Petitioner submitted check stubs to the Department. Exhibit A, pp. 7-14.
3. As a result of Petitioner's reported earnings, the Department determined that her budgetable income was [REDACTED], which exceeded the HMP income limits for a household size of one. Exhibit A, pp. 1 and 15.

4. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was not eligible for the HMP benefits effective August 1, 2016 because her countable income exceeds the income limits for her group size. Exhibit A, pp. 5-6.
5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See 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.

MA is available (i) under Supplemental Security Income (SSI)-related categories to individuals who are aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled, (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 HMP coverage. BEM 105 (July 2016), p. 1. The evidence at the hearing established that Petitioner was 59 years old, and not the parent or caretaker of a minor child. There was no evidence presented that she was disabled or blind. Accordingly, the only MA category available to Petitioner was HMP.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (January 2016), p. 1. The Healthy Michigan Plan provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137, p. 1.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Meet Michigan residency requirements

- Meet Medicaid citizenship requirements
- Have income at or below 133 percent Federal Poverty Level (FPL).

BEM 137, p. 1.

In the present case, the issue was whether Petitioner's income was at or below 133% of the FPL in order for her to be eligible for HMP coverage. It was undisputed that Petitioner's household composition was one for purposes of MAGI related coverage, which is determined by the principles of tax dependency. MAGI Related Eligibility Manual, *Michigan Department of Community Health (DCH)*, May 2014, p. 14.

Available at http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf. The 2016 Poverty Guidelines for the 48 Contiguous States and the District of Columbia indicated that the poverty guidelines for persons in family/household size of one is \$11,880. 2016 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 25, 2016, p. 1. Available at: <https://aspe.hhs.gov/poverty-guidelines>. However, the poverty guidelines for a household size of one must be multiplied by 1.33 (133%) to obtain the 133% FPL calculation. The result is that Petitioner's annual income must be at or below \$15,800.40 (\$11,880 multiplied by 1.33) for a household size of one, or must be at or below \$1,316.70 per month (\$15,800.40 divided by 12 months) when determining her monthly eligibility. It should be noted that throughout the hearing, the Department testified that Petitioner's income must be at or below \$1,304.51 to be eligible for HMP; however, this was an improper calculation as the Department figures were based on the 2015 poverty guidelines.

Then, it must be determined whether Petitioner's income is countable. MAGI is a methodology for how income is counted and how household composition and family size are determined. MAGI Related Eligibility Manual, p. 16. It is based on federal tax rules for determining adjusted gross income. MAGI Related Eligibility Manual, p. 16. Every individual is evaluated for eligibility based on MAGI rules. MAGI Related Eligibility Manual, p. 16. 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. MAGI Related Eligibility Manual, p. 16. Common sources of income which are countable in a MAGI related determination include wages/salary. See MAGI Related Eligibility Manual, p. 16. As such, Petitioner's wages/salary benefits are countable for HMP purposes.

Next, the Department testified that Petitioner's reported earnings were entered into the system (Bridges) resulting in the budgetable income of [REDACTED] Exhibit A, pp. 1 and 15. On [REDACTED], Petitioner provided the Department weekly earnings statements for the pay dates of [REDACTED]. Exhibit A, pp. 8-14. Each of the paychecks were similar, except for one. A majority of the paychecks contained the following pay information: (i) 41 hours worked (one overtime hour and 40 regular hours); (ii) gross pay amount of [REDACTED]; (iii) basic payroll deductions including federal tax, social security, Medicare, and state and local taxes; and (iv) a net wage of [REDACTED]. Exhibit A, pp. 8-9 and 11-14. The outlier check was from the pay date of [REDACTED], which contained the following information: (i) 31 regular hours worked; (ii) gross pay

amount of [REDACTED] (iii) basic payroll deductions including federal tax, social security, Medicare, and state and local taxes; and (iv) a net wage of [REDACTED]. Exhibit A, p. 10. Based on the income provided, the Department took her weekly gross pay of [REDACTED] and multiplied it by 4 weeks to get a budgetable income of [REDACTED] (excluding the outlier pay check dated [REDACTED]). Thus, the Department argued that Petitioner's monthly budgetable income of [REDACTED] exceeded the income limit for HMP purposes, resulting in the closure of her benefits.

In response, Petitioner argued that she should be eligible for HMP coverage. Petitioner did not dispute that her standard income consists of the 41 hours worked per week and a gross pay of [REDACTED]. Petitioner, though, argued that she should qualify for coverage because she is only paid minimum wage, she suffers from multiple medical conditions and cannot afford medical coverage, and her net income is only [REDACTED] per week. See Exhibit A, p. 2 (Hearing Request). Petitioner further testified that the outlier check dated [REDACTED] must have been a lower amount because of a holiday for which she does get paid.

Medicaid eligibility is determined on a calendar month basis. BEM 105, p. 2. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. BEM 105, p. 2. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, p. 2.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. BEM 500 (January 2016), p. 3. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. BEM 500, pp. 3-4. It eliminates asset tests and special deductions or disregards. BEM 500, p. 4. Every individual is evaluated for eligibility based on MAGI rules. BEM 500, p. 4. 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. BEM 500, p. 4.

Additionally, federal law provides further guidance in the determination of an individual's financial eligibility for MAGI related categories. Specifically, in determining an individual's financial eligibility for a budget period, 42 CFR 435.603(h)(2) states for current beneficiaries:

For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year.

Also, 42 CFR 435.603(h)(3) states:

In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both . . .

Based on the foregoing information and evidence, the undersigned finds that the Department's method in calculating Petitioner's income and determining that her income had exceeded the HMP income limits (133% of the FPL) was in accordance with federal and state laws and polices. See BEM 105, p. 2; BEM 500, pp. 3-4; and 42 CFR 435.603(h)(1)-(3). It was not disputed that Petitioner works 41 hours a week and receives a weekly gross income of [REDACTED]. Based on this information, the undersigned finds that Petitioner's monthly income was [REDACTED] ([REDACTED] income times 4 (weekly pay)) and her annual income is [REDACTED] ([REDACTED] monthly household income times 12 months). Petitioner's monthly income exceeds the monthly FPL of \$1,316.70 (\$15,800.40 annual federal poverty level divided by 12 months) and also, her annual income of [REDACTED] exceeds the annual FPL of \$15,800.40. In either case, Petitioner's current monthly household income exceeded the monthly and/or annual FPL of 133%. As such, the Department acted in accordance in Department policy when it closed Petitioner's MA benefits effective [REDACTED], due to excess income.

DECISION AND ORDER

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 closed Petitioner's MA – HMP coverage effective [REDACTED].

Accordingly, the Department's MA – HMP decision is **AFFIRMED**.

EF/hw


Eric J. Feldman

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]