



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: April 26, 2016  
MAHS Docket No.: 16-000249  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **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 hearing was held on March 24, 2016, at the Washtenaw County Department of Health and Human Services Office. Petitioner was represented by Attorney [REDACTED] of the Michigan Poverty Law Program. Petitioner appeared and testified. The Department was represented by Assistant Attorney General [REDACTED], Eligibility Specialist [REDACTED] and Assistance Payments Supervisor [REDACTED] appeared for the Department and testified. Department's Exhibit A, Hearing Packet, pages 1-41 and Department's Exhibit B Department of Health and Human Services' Response to Petitioner's Motion for Summary Disposition, pages 1-8 were admitted into evidence. Petitioner's Exhibit 1 Brief in Support of Petitioner's Appeal, pages 1-4; Petitioner's Exhibit 2 Petitioner's Motion for Summary Disposition, pages 1-6; Petitioner's Exhibit 3 Healthy Michigan Plan Frequently Asked Questions, pages 1-3; Petitioner's Exhibit 4 Department of Health and Human Services' (Federal) letter of November 7, 2014, regarding minimum essential coverage, pages 1-7; and Petitioner's Exhibit 5 Out-of-pocket maximum/limit, were admitted into evidence.

Petitioner submitted a Motion for Summary Disposition on March 15, 2016 stating that the motion was brought pursuant to Michigan Administrative Hearing Rule 792.10129(1)(a). R792.10101 Scope, under (2) states "The rules in part 1 apply to all administrative hearings conducted by the hearing system, except hearings specifically exempted under MCL 445.2021, MCL 445.2030, and MCL 445.2032, and subject to prevailing practices and procedures established by state and federal statutes and the rules for specific types of hearings contained in parts 2, 3, and 5 to 19 of the rules." This hearing is conducted pursuant to Part 10 Department of Human Services & Department of Community Health. There are no provisions for Summary Disposition in part 10. Petitioner's motion and the Department's response were admitted into evidence only as written arguments.

### **ISSUE**

Did the Department properly determine Medical Assistance (MA) eligibility for Petitioner's two children on December 7, 2015?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At the time of this contested eligibility determination, Petitioner's household consisted of herself, her two children, and [REDACTED] the father of Petitioner's two children.
2. At the time of this contested eligibility determination, Petitioner and [REDACTED] were not married.
3. At the time of this contested eligibility determination, Petitioner and [REDACTED] were both employed and receiving earned income.
4. Both Petitioner and [REDACTED] have Medical Assistance (MA) coverage under the Healthy Michigan Plan.
5. On December 7, 2015, the Department issued a Health Care Coverage Determination Notice (DHHS-1606) which stated Petitioner's two children were eligible for Medical Assistance (MA) coverage with a \$ [REDACTED] monthly deductible.
6. On January 8, 2016, Petitioner submitted a hearing request.

### **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 asserts that when Petitioner applied to the federal marketplace for private insurance she was told her household income was below 100% of the Federal Poverty Level and she was not eligible to enroll in the Marketplace. When the

application was forwarded to the Michigan Department of Health and Human Services Petitioner was found eligible for the Health Michigan Plan but her two children were found eligible for Medical Assistance (MA) coverage with a \$ [REDACTED] monthly deductible. The Medical Assistance (MA) eligibility determination for Petitioner's two children was based on the income of both their parents as benefit group members in accordance with Bridges Eligibility Manual (BEM) 211 MA Group Composition.

Petitioner DOES NOT assert that BEM 211 is inconsistent with 42 C.F.R. 435.603. It is noted that the provisions of BEM 211 used to calculate the income of Petitioner's two children are identical to the provisions in 42 C.F.R. 435.603. Neither does Petitioner assert that the Department made an error in the eligibility analysis under BEM 211. Petitioner asserts that "DHHS incorrectly applied BEM 211 when it should have applied the exception found at 42 C.F.R. 435.603(i)." (Petitioner's Exhibit 1 Brief in Support of Petitioner's Appeal, page 4) 42 C.F.R. 435.603(i) provides:

If the household income of an individual determined in accordance with this section results in financial ineligibility for Medicaid and the household income of such individual determined in accordance with 26 CFR 1.36B-1(e) is below 100 percent FPL, Medicaid financial eligibility will be determined in accordance with 26 CFR 1.36B-1(e).

Petitioner ignores or is unaware of the fact that each individual being evaluated for Medical Assistance (MA) eligibility, will have their individual income calculated. With regard to Petitioner's household that means that the income of all four members is calculated individually based on their specific criteria. While Petitioner's individual income calculated under 42 C.F.R. 435.603 may be below 100% of the federal poverty level, her children's individual income calculated under the section **IS NOT** below 100% of the federal poverty level. Therefore, 42 C.F.R. 435.603(i), cited above, is not applicable to Petitioner's two children.

Petitioner has presented no valid argument against the Medical Assistance (MA) eligibility determination of December 7, 2015. Petitioner's arguments are all based on misapplication of Petitioner's individual Medical Assistance (MA) eligibility and individual income calculated under 42 C.F.R. 435.603 and BEM 211 to her two children.

Petitioner also submitted evidence and arguments regarding the potential tax penalty for a beneficiary on a Medicaid spend down who refuses full coverage under the Healthy Michigan Plan. (Petitioner's Exhibit 3 page 3) However, page 1 of that same exhibit states that the Healthy Michigan Plan is for individuals who are age 19-64 years. Petitioner's two children are not eligible for the Healthy Michigan Plan so this argument is not relevant to the eligibility determination for the two children.

Petitioner submitted evidence regarding minimal essential coverage (Petitioner's Exhibit 4) and out-of-pocket maximum limits for health plans (Petitioner's Exhibit 5) Based on this evidence Petitioner argued that the deductible coverage the two children were approved for does not meet those requirements. These argument are outside the scope

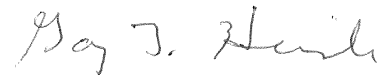
of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

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 Medical Assistance (MA) eligibility for Petitioner's two children on December 7, 2015.

### **DECISION AND ORDER**

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



GH/nr

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Gary Heisler  
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

**Counsel for Petitioner**

[REDACTED]

**Counsel for Respondent**

[REDACTED]

**DHHS**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]