



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: June 20, 2016
MAHS Docket No.: 16-005010
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 May 26, 2016, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] and [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's Medical Assistance (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. The Petitioner was an ongoing Medical Assistance (MA) recipient.
2. On March 1, 2016, the Department received the Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 3 – 8.
3. On March 4, 2016, the Department sent the Petitioner a Verification Checklist (DHS-3503) requesting verification of his income and bank accounts by March 14, 2016. Exhibit A, p 37 – 38.
4. On March 11, 2016, the Department received a copy of the Petitioner's US Individual Tax Return Form 1040 for the 2015 tax year. Exhibit A, pp 54 – 71.

5. The Petitioner attached a Schedule C to his tax returns as verification reporting that he received self-employment income in the net annual amount of \$ [REDACTED] Exhibit A, pp 54 – 56.
6. The Petitioner receives rental income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 39.
7. On March 30, 2016, the Department notified the Petitioner that he was not eligible for Medical Assistance (MA) benefits effective May 1, 2016. Exhibit A, pp 40 – 43.
8. On March 30, 2016, the Department notified the Petitioner that he was no longer eligible for Food Assistance Program (FAP) benefits effective April 1, 2016. Exhibit A, pp 50 – 53.
9. On April 8, 2016, the Department received the Petitioner's request for a hearing protesting the closure of his Medical Assistance (MA) benefits. Exhibit A, p 1.

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Petitioner was an ongoing FAP recipient until April 1, 2016, when the Department closed his benefits. A group of one that is not considered a senior/disabled/disabled veteran benefit group is not eligible for FAP benefits with a gross monthly income that exceed \$ [REDACTED] regardless of expenses. The Department closed the Petitioner's FAP benefits effective April 1, 2016.

The Petitioner was an ongoing MA recipient under the Healthy Michigan Plan (HMP) until May 1, 2016, and his countable income is determined differently for this program than for food assistance.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. 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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2016), p 1. 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.

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. 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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3 – 4.

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.¹

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.

MA-only eligibility is determined on a calendar month basis. 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. When determining eligibility for a future month, assume circumstances as of the processing date will

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

continue unchanged unless you have information that indicates otherwise. Department of Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2016), p 2.

Department policy is consistent with federal regulations under 42 CFR § 435.603(h) that state:

Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.

The following are common sources of income which are countable in a MAGI related determination:

- Wages/Salary
- Self-Employment
- RSDI
- Pensions
- Unemployment Benefits
- Spousal Support

MAGI Related Eligibility Manual, p 14.

The following are common sources of income which are not countable in a MAGI related determination:

- Child Support
- Workers Compensation
- American Indian/Native American payments
- Veteran's Benefits such as:
 - Aid and attendance
 - Augmented compensation
 - Educational benefits
 - Housebound allowance
 - Unusual medical expenses

- Supplemental Security Income
- Adoption Subsidy
- Disaster Relief Payments

MAGI Related Eligibility Manual, pp 14 – 15.

MAGI related Medicaid uses net income as declared on the federal tax return. The Schedule C, Profit or Loss From Business is the primary source of verification. This form is generally used in conjunction with IRS form 1040, 1040NR or 1041. Schedule C is acceptable even if not yet filed with the IRS. Department of Health and Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2015), pp 1 – 9.

Rental income is money an individual (landlord) receives for allowing another individual (renter) to use the landlord's property. It includes income from a lease. Rental income that is not farm land rental income, in-home rental income, or room and board income is considered unearned income if the client spends less than 20 hours per week engaged in managing the property. The Department applied either a standard percentage of gross income if the landlord chooses not to report actual expenses or the landlord does not verify reported expenses exceeding the standard percentage. Expenses must be the landlord's obligation and must solely be expenses of the rental property to be allowed. Department of Health and Human Services Bridges Eligibility Manual (BEM) 504 (July 1, 2014), pp 1 – 6.

The Petitioner was an ongoing MA recipient as a group of one receiving his benefits under the HMP category. On March 1, 2016, the Department received the Petitioner's completed Redetermination (DHS-1010) form and initiated a review of his eligibility to receive continuing benefits. The Petitioner reported that he receives self-employment and rental income. On March 30, 2016, the Department notified the Petitioner that he was no longer eligible for HMP benefits as of May 1, 2016, based on his income.

The Petitioner reported that he receives rental income in the gross monthly amount of \$ [REDACTED] and it was not contested that he spends less than 20 hours per week engaged in managing the property. The Petitioner also reported an obligation to pay a mortgage on this property, which is both his residence and an income producing asset. The Department refused to apply this mortgage as an expenses against rental income after determining that this expenses is not solely an expenses of the rental property as directed by BEM 504.

This is a proper application of policy when determining countable income and eligibility for FAP benefits. If the mortgage expenses that is not solely an expenses of the rental property was allowed as a deduction from rental income, it would be counted a second time as a shelter expenses in the determination of FAP eligibility.

Under the Petitioner's circumstances, the mortgage expenses has no effect on his eligibility for FAP benefits because his gross monthly income exceeds the gross

monthly limit for a group of one to receive FAP benefits and his shelter expenses are not considered. If the Petitioner's gross monthly income did not exceed the gross monthly limit, the Department would have applied the mortgage expenses towards his eligibility for FAP benefits, but would have counted it as a shelter expenses and not a deduction from countable income.

However, this Administrative Law Judge finds no basis in policy for the Department's determination of the Petitioner's countable income from rental income when determining his eligibility for HMP benefits.

When determining eligibility for HMP benefits, the Department will consider a person's modified adjusted gross income (MAGI), which is based on IRS rules. The Department's practices of determining countable income from rental property as directed by BEM 504 do not apply towards eligibility for HMP benefits. While BEM 504 is silent with respect to determination of MAGI income from rental income, BEM 137 indicates that HMP benefits are a category of MA benefits authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. This Administrative Law Judge finds no basis under MAGI or IRS rules for excluding a verified mortgage expense from its determination of income derived from rental property because that mortgage is not solely an expenses of the rental property. Therefore, the Department's closure of HMP benefits must be reversed.

Furthermore, the Petitioner reported that he receives monthly self-employment income. The Department determined the Petitioner's prospective income with respect to his eligibility for continuing HMP eligibility based on his income tax return for the 2015 tax year. The Petitioner reported a net business gain to the IRS on his Schedule C form for the 2015 tax year in the net annual amount of \$[REDACTED]. The Department determined a prospective gross monthly income of \$[REDACTED] from this amount by dividing his annual income by 12 months.

However, this Administrative Law Judge finds no basis in policy for the Department's determination of the Petitioner's countable self-employment income when determining his eligibility for HMP benefits.

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. MAGI related Medicaid uses net income as declared on the federal tax return. When determining eligibility for MA benefits, the Schedule C, Profit or Loss From Business is the primary source of verification. This form is generally used in conjunction with the IRS form 1040, 1040NR or 1041. The Schedule C is acceptable even if not yet filed with the IRS. The DHS-431, Self-Employment Statement is not acceptable verification for Medicaid purposes. BEM 502.

The Department properly verified the Petitioner's countable self-employment income from his Schedule C tax form but failed to apply an \$ [REDACTED] loss from a prior year when determining his total countable MAGI income. When determining countable income with respect to a person's eligibility for FAP benefits, the Department would be prohibited from counting both this loss and other deductions from business income listed on his Schedule C that are not specifically allowed by BEM 502. When determining eligibility for HMP benefits, the Department is required to consider a person's modified adjusted gross income (MAGI), which is based on IRS rules and the methodologies applied by the federally facilitated marketplace.

Generally, your MAGI is the total of your adjusted gross income and tax-exempt interest income you may have. These are the amounts on lines 37 and 8b of the IRS form 1040.

This Administrative Law Judge finds no basis for excluding the Petitioner's \$ [REDACTED] loss from a prior year when determining his MAGI for the purposes of determining his eligibility for continuing HMP benefits.

The Department's representative testified that the Petitioner failed to provide verification of all of his bank accounts to the Department by March 14, 2016. While this may have been relevant towards his eligibility for FAP benefits, there is no asset limit to remain eligible for HMP benefits. Therefore, the Petitioner's failure to provide verification of an asset is not relevant towards his eligibility for HMP 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 closed the Petitioner's Medical Assistance (MA) benefits under the Health Michigan Plan (HMP).

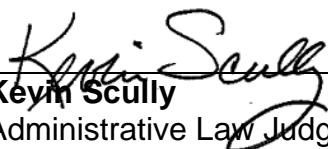
DECISION AND ORDER

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) as of April 1, 2016, as directed by policy with adequate notice to the Petitioner.

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).

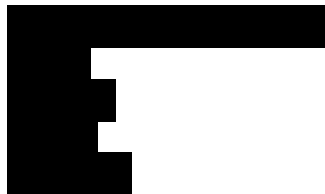
A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for 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



Petitioner

