



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.: 16-005418  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner's Authorized Hearing Representative (AHR). The Petitioner also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

### **ISSUE**

Did the Department properly determined that the Petitioner was not eligible for Healthy Michigan Plan (HMP) due to excess income?

### **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 sent the Petitioner a Medical Review Redetermination on January 11, 2016, which was due to be returned to the Department by [REDACTED] Exhibit 1.
2. The Petitioner receives employment income. The Petitioner provided the Department paystubs for [REDACTED], with gross federal taxable wages in the amount of \$ [REDACTED] on [REDACTED], with gross taxable wages of \$ [REDACTED] on [REDACTED]. Exhibit 2. The two paystubs total \$ [REDACTED]

3. The Petitioner listed his total income of \$ [REDACTED] on the Redetermination. Exhibit 1.
4. The Petitioner listed his gross biweekly pay as \$ [REDACTED] based upon [REDACTED] hours biweekly. Exhibit 1. Petitioner noted in the Redetermination that as a stagehand he does not always get an hourly rate. It depends on the kind of event. I would call my employment seasonal, some weeks, months or seasons are better than others. Exhibit 1.
5. The Department issued a Health Care Coverage Determination Notice on [REDACTED], which advised the Petitioner that his Medical Assistance (MA) would close because his income exceeded the HMP income limit of \$ [REDACTED] and because he was not under age 19, pregnant, a parent or caretaker of a minor child, in foster care at age 18, over age 65, blind or disabled and his income, which the Department identified at \$ [REDACTED] annually, exceeded the income limit for HMP eligibility (Exhibit 5).
6. The Petitioner is the only individual in his MA group as the sole member of his household. The Petitioner does not care for a minor child. The Petitioner was [REDACTED] years old at the time of the redetermination.
7. The Department testified that it used three (3) paystubs to determine the monthly income, which paystubs covered more than 30 days. The Department used the pay for [REDACTED]; [REDACTED]; and [REDACTED], [REDACTED]. The three (3) paystubs totaled \$ [REDACTED] Exhibits 2 and 3. The Petitioner is paid biweekly. The actual method used to determine the gross income calculation was not provided by the Department.
8. The Petitioner's AHR requested a timely hearing on [REDACTED], protesting the Department's actions.

### **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.

Petitioner disputes the Department's closure of his MA case. The Department explained that Petitioner was initially approved for MA under the HMP program; but when his income was recalculated in connection with his redetermination, he was found income-ineligible for HMP coverage; and he was ineligible for MA under any other MA category.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), 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 (October 2014), p. 1. The evidence at the hearing established that Petitioner was 48 years old and not the parent or caretaker of a minor child. There was no evidence presented that he was disabled or blind. Accordingly, the only MA category available to Petitioner was HMP.

HMP is a Modified Adjusted Gross Income (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 percent of the federal poverty level (FPL) under the 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.

In this case, the Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit. An individual is eligible for HMP if his household's income does not exceed 133 percent of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. In this case, the Petitioner filed taxes and did not claim any dependents. Therefore, for HMP purposes, he has a household size of one. BEM 211 (October 2016), pp. 1-2. 133 percent of the annual FPL in 2016 for a household with one member is \$ [REDACTED]. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$ [REDACTED].

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (January 2016), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. If the client's attested income is below the income threshold for eligibility for a MAGI-related MA category but the income reported by the trusted data source is above the income threshold and the difference is greater than 10 percent, the income is not reasonably compatible and the individual is required to provide proof of attested income. BEM 500, p. 5.

In this case, based on information from the [REDACTED], Health Care Coverage Determination Notice, the income reported by trusted data sources was \$ [REDACTED] in

excess of the HMP income limit. Therefore, the Department was required to verify Petitioner's income to determine his eligibility for HMP. The Petitioner provided paystubs for two pay periods: [REDACTED], with gross federal taxable wages in the amount of \$ [REDACTED] and [REDACTED], with gross taxable wages of \$ [REDACTED]. The Petitioner is paid biweekly. The two pay stubs total \$ [REDACTED] Exhibit 2. Using the two paystubs provided by the Petitioner for the pay dates [REDACTED], and [REDACTED], the sum of these biweekly payments is \$ [REDACTED]. When Petitioner's monthly income is multiplied by 12, the result is annual income of [REDACTED] which is less than the \$ [REDACTED] income limit for HMP.

The Department testified that it used three paystubs from the work number \$ [REDACTED] pay dated [REDACTED]; the pay dated [REDACTED], \$ [REDACTED] and \$ [REDACTED] pay dated [REDACTED]. The three pays totaled [REDACTED], which when multiplied by 12 equals total gross annual income of \$ [REDACTED] which is over the HMP income limit. The work number summary of pays did not report the [REDACTED], paystub. Exhibit 3. The Department's use of the three (3) paystubs was incorrect as it covered more than a 30-day pay period and was not representative of gross monthly pay.

Using the paystubs for [REDACTED]; and [REDACTED] when totaled equal \$ [REDACTED] monthly. The monthly gross income of \$ [REDACTED] when multiplied by 12 to get annual income, equals \$ [REDACTED] which is less than the HMP income limit. Thus, as can be seen when the correct time period is used, the Petitioner's gross monthly pay when annualized demonstrates that Petitioner's income is in fact under the HMP limit.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2016 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The paystubs provided by the Petitioner were based on federal taxable wages as no deductions for health coverage, child care or retirement savings were made. The paystubs themselves note the federal taxable wages are the same as gross pay as no deductions were made so use of the paystubs. Thus, use of the federal taxable wages shown on the paystubs is the correct way to calculate the MAGI income.

Consequently, the Department did not act in accordance with Department policy when it determined, based the Department's calculation of Petitioner's gross income that the Petitioner was not income-eligible for MA under the HMP category.

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 HMP due to excess income.


**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. The Department shall reinstate the Petitioner's MA case effective [REDACTED].
2. The Department shall reprocess Petitioner's eligibility for HMP coverage in accordance with Department policy.

LMF/jaf



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**Lynn M. Ferris**  
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]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]

**CC:**

[REDACTED]