



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 22, 2016
MAHS Docket No.: 16-006401
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 June 21, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly close Petitioner's 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. Petitioner was an on-going recipient of MA through the Department's Healthy Michigan Plan (HMP).
2. On April 29, 2016, Petitioner provided the Department with a copy of two pay stubs from her employment with [REDACTED], the pay dates being March 31, 2016 and April 29, 2016.
3. Petitioner's gross wages as of April 29, 2016 were \$ [REDACTED] (Exhibit 1 Page 17), based upon wages of \$ [REDACTED] per hour for five hours each day, seven days per week, for providing in-home care for her grandfather.

4. Petitioner's daily wage is \$ [REDACTED], which is the equivalent of \$ [REDACTED] for a 365 day year. There are occasional days during the year when her grandfather is hospitalized, so she is not paid for providing care on those days, but the number of such days in any given year are unpredictable.
5. On April 29, 2016 the Department mailed to Petitioner a Health Care Coverage Determination Notice (Exhibit 1 Pages 4-7) informing her that her HMP would be closing as of June 1, 2016, due to annual income which the Department calculated to be \$ [REDACTED].
6. Petitioner is a [REDACTED]-year-old single woman with no dependents.
7. Petitioner is paid twice each month, with one check on the 15th, and one check at the end of the month.
8. The HMP income limit for a single-person group with an age between 19 and 64 is \$15,800.00.
9. The Department calculated Petitioner's annual income using bi-weekly pay periods.
10. On May 15, 2016, the Department received Petitioner's hearing request, protesting the decision to close her MA benefits.

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, the Department closed Petitioner's MA because it calculated her annual income using 26 bi-weekly pay periods. That is the frequency of pay Petitioner had stated, but Petitioner was confused at the time. The reality is that she is paid twice per month, not every two weeks. She provided pay stubs (Pages 17 and 18) that reported her year-to-date (y-t-d) wages. At the end of March her gross income was \$ [REDACTED] and at the end of April it was \$ [REDACTED]. There are several ways her annual income

could be determined. If the March y-t-d gross was \$ [REDACTED], that is an average of \$ [REDACTED] per month, and that works out to \$ [REDACTED] over 12 months. If the April y-t-d gross was \$ [REDACTED], that is an average of \$ [REDACTED] per month, and that works out to \$ [REDACTED] per year. Even if she worked every day of the year, five hours per day at \$ [REDACTED] per hour, that works out to \$ [REDACTED] in a 365 day year.

During the course of the hearing it became evident that Petitioner mistakenly said she was paid bi-weekly instead of semi-monthly. That is not an uncommon error. The Department extrapolated from a gross pay check of \$ [REDACTED] which, if she received 26 of those checks each year, would total \$ [REDACTED] annually. That exceeds the limit of \$ [REDACTED]. It is not clear how the Department calculated her annual income to be \$ [REDACTED] (Page 5), but regardless, the Department erred. Whether her annual income was calculated using the March y-t-d, the April y-t-d, or a formula using five hours per day for 365 days per year, her income is under the limit.

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 Petitioner's MA.

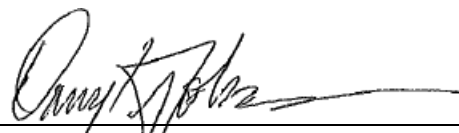
DECISION AND ORDER

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 initiate a redetermination as to whether Petitioner is entitled to MA benefits as provided by applicable policies, effective June 1, 2016.

DJ/mc



Darryl Johnson
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]

Petitioner

[REDACTED]