



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: October 4, 2016
MAHS Docket No.: 16-011639
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 telephone hearing was held on September 15, 2016, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Hearing Facilitator [REDACTED] and Family Independence Specialist [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 - 28 was admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility on June 21, 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 Medical Assistance (MA) benefits under the Healthy Michigan Plan (HMP).
2. On June 7, 2016, Petitioner submitted self-employment information.
3. On June 21, 2016, Petitioner was sent a Health Care Coverage Determination Notice (DHHS-1606) which stated he was not eligible for Medical Assistance (MA) beginning August 1, 2016. The notice stated his income was \$ [REDACTED] which is over the limit for HMP eligibility.

4. On July 26, 2016, Petitioner was sent another Health Care Coverage Determination Notice (DHHS-1606) which stated he was not eligible for Medical Assistance (MA) beginning September 1, 2016. The notice stated his income was \$ [REDACTED] which is over the limit for HMP eligibility.
5. On August 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.

Bridges Eligibility Manual (BEM) 137 Healthy Michigan Plan, under Income states "Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL)."

42 CFR 435.603 provides in relevant parts:

§ 435.603 Application of modified adjusted gross income (MAGI).

(a) Basis, scope, and implementation.

(1) This section implements section 1902(e)(14) of the Act.

(2) Effective January 1, 2014, the agency must apply the financial methodologies set forth in this section in determining the financial eligibility of all individuals for Medicaid, except for individuals identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.

(3) In the case of determining ongoing eligibility for beneficiaries determined eligible for Medicaid coverage to begin on or before December 31, 2013, application of the financial methodologies set forth in this section will not be applied until March 31, 2014 or the next regularly-scheduled renewal of eligibility for such individual under § 435.916 of this part, whichever is later.

(b) Definitions. For purposes of this section—

(c) *Basic rule.* Except as specified in paragraph (i) and (j) of this section, the agency must determine financial eligibility for Medicaid based on “household income” as defined in paragraph (d) of this section.

(d) Household income—

(1) General rule. Except as provided in paragraphs (d)(2) and (d)(3) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, 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.

(2) Income of children and tax dependents.

(3) In the case of individuals described in paragraph (f)(2)(i) of this section

(e) *MAGI-based income.* For the purposes of this section, MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.

In this case the Department took one month of self-employment information and calculated a monthly net self-employment income of [REDACTED] from that information. The calculation was the amount Petitioner was paid (\$[REDACTED] minus the total of materials receipts he submitted ([REDACTED])). The \$[REDACTED] was added to a monthly gross earned income of \$[REDACTED], calculated from paystubs submitted by petitioner. The Department submitted a MAGI Eligibility Determination print out (page 27) with those numbers on it as monthly income amounts. No one from the Department could explain how the two different annual income amounts on the two different notices were calculated. It is noted that there are no deductions listed on the MAGI Eligibility Determination print out.

During this hearing Petitioner testified that his self-employment consists of contracting to hang dry wall for construction. Petitioner testified that he does not do self-employment work every month and the self-employment jobs that he does vary in size. Petitioner’s testimony about his self-employment, is found credible. In light of that, the accuracy of the Department’s annual self-employment calculation is not credible. Neither was it calculated based on MAGI principles.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner’s Medical Assistance (MA) eligibility on June 21, 2016.

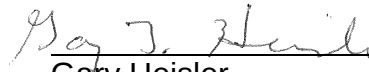
DECISION AND ORDER

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. Reinstate Petitioner's Medical Assistance (MA) from August 1, 2016 ongoing and process his Medical Assistance (MA) case in accordance with Department policy and the requirements of the federal regulations.

GH/nr



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

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]