



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: December 6, 2016  
MAHS Docket No.: 16-013204  
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], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

### **ISSUE**

1. Did the Department properly deny the Petitioner's State Emergency Relief (SER) for failure to provide timely verification of her copayment to the Department?
2. Did the Department properly deny the Petitioner's Medical Assistance (MA) Health 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 Petitioner provided verification of copayment in support of her SER application for DTE Energy services and water bill to the Department by sending an email to her caseworker providing proof of her copayment payment. The email was received at 5:20 PM on the due date.
2. The Department issued an SER Decision Notice on [REDACTED], denying the Petitioner's SER application, for the reason Automatic Denial of SER after 60 days - the client failed to verify payment after pseudo-certification. Exhibit A.

3. The Department issued a Health Care Coverage Determination Notice, dated [REDACTED], which denied the Petitioner's ongoing MA due to excess income. Exhibit B.
4. The Department provided an employment budget summary for Two Unique and used \$ [REDACTED] to determine income for the Petitioner for the month of [REDACTED]. The Petitioner was unable to testify whether the monthly income amount was correct. Exhibit C.
5. The Department provided an employment budget summary for [REDACTED] [REDACTED]. The summary only showed monthly income as of [REDACTED] of \$ [REDACTED]. The Department provided no information regarding income for this employer for the [REDACTED] redetermination month. Exhibit D.
6. The Hearing Decision issued by Administrative Law Judge Zainab Baydoun, dated [REDACTED], ordered the Department to register and process Petitioner's [REDACTED] application for SER and determine eligibility for SER. The Department was to process proof of SER copayment contribution or shortfall received in accordance with Department policy and supplement Petitioner for SER assistance that she was to eligible to receive. Exhibit E.
7. The Petitioner completed an MA Redetermination on [REDACTED]. In the Hearing Decision issued by ALJ Baydoun, the Department was ordered to reinstate Petitioner's MA case effective [REDACTED]. The Department was ordered to process Petitioner's Redetermination in accordance with Department policy and provide the Petitioner with MA coverage from [REDACTED], ongoing in accordance with Department policy and notify Petitioner in writing of its decision. Exhibit E.
8. The Petitioner requested a timely hearing on [REDACTED].

### **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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

### SER Issue

In this case, the Department, after a hearing, was ordered to register and process the Petitioner's application for SER, dated February, and determine eligibility for SER. The Department was to process proof of SER copayment contribution or shortfall received in accordance with Department policy and supplement Petitioner for SER assistance that she was to eligible to receive. Exhibit E.

In this case the Department presented an SER Decision Notice, dated [REDACTED], denying the SER application as follows: Automatic denial of SER after 60 days, client failed to verify payment after pseudo certification. The SER Decision Notice cited no policy in support of its Decision. The Department received an email verifying that that Petitioner completed a verification of proof of copayment at 5:26 p.m. on [REDACTED]. The Department did not provide the date of the SER application; and thus, it cannot be determined when the Petitioner applied for SER. This is problematic as the Petitioner has 30 calendar days beginning with the date of the application, to provide verification to the worker that the shortfall payment has been made or will be made by another agency or organization. ERM 301 (October 1, 2015), p. 8. The Department did not provide the date of the SER application. If the deadline for verification of payment is not met by the client, no SER payment will be made if the client fails to return the verification. Further, the Department did not comply with the Hearing Decision as it did not process the application and improperly denied the application for automatic denial.

The Department testified that it attempted to process proof of copayment and sought a Help Desk Ticket. However, apparently the Department was unsuccessful in having the application reregistered as ordered. In addition, Department policy would have determined the electronic verification as timely.

Verifications are considered to be timely if received by the date they are due. **For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date.**

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**

- The time period given has elapsed. BAM 130, (July 1, 2016), p. 9.

Given the above-referenced policy and the Department's failure to comply with the Hearing Decision order, it is determined that the Department failed to demonstrate that it complied with Department policy when it issued the original decision notice denying the Petitioner's SER application referenced in the ALJ Baydoun Hearing Decision as the verification based upon BAM 130 was timely. Further, the Department's current SER Decision Notice, dated [REDACTED] is not in compliance with the actions the Department was ordered to take and is not in compliance with Department policy cited above.

### **Medical Assistance**

The Petitioner completed a Medical Assistance Redetermination for [REDACTED], and the Department was ordered to reprocess the Redetermination for [REDACTED], by ALJ Baydoun's Hearing Decision, dated [REDACTED]. Exhibit E. The Department issued a Health Care Coverage Determination Notice, dated [REDACTED], denying the Petitioner's HMP due to excess income, effective [REDACTED]. Exhibit B.

In this case, the Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit. An individual is eligible for HMP if his/her household's income does not exceed 133% 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. For HMP purposes, Petitioner has a household size of one. BEM 211 (October 2016), pp. 1-2. 133% of the annual FPL in 2016 for a household with one member is \$15,800.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$15,800.40.

The Petitioner was employed by two employers during [REDACTED] although the Department should have reprocessed the Redetermination for [REDACTED]. The first, Too Unique, the monthly income was \$ [REDACTED] resulting in annual income of \$ [REDACTED] ([REDACTED]). Exhibit C. The Department also used \$ [REDACTED] a week to calculate pay for [REDACTED]. The Employment Budget Summary introduced at the hearing was for [REDACTED] for the budget month of [REDACTED] not [REDACTED]. Exhibit D.

During the hearing, the Petitioner testified that she could not verify whether these amounts were correct; and the Department did not provide any pay stubs with the hearing packet. The Petitioner testified that she had fluctuating income; and she told both her workers, new and old about the income fluctuation. This testimony is also supported by Exhibit D presented by the Department as income associated with [REDACTED]. The Petitioner was [REDACTED] years of age at the time of the hearing. The Petitioner had been receiving HMP; however, based upon a review of the income used by the Department, it determined that the Petitioner was over the HMP income limit. Based upon this evidence, the Department did not demonstrate how it determined monthly income

of \$ [REDACTED] for [REDACTED]. No pay stubs for the [REDACTED] were presented; and in [REDACTED], the income budgeted was \$ [REDACTED]. Exhibit D. Based upon this evidence, the Department did not meet its burden of proof.

The income limit for HMP for a household size of one member between the ages of 19 and 64 is \$15,800.40. Exhibit D. The Department's Health Care Coverage Determination Notice did not indicate or include what income the Department used to support the Department's denial due to excess income. The Department, based upon the information it presented, did not meet its burden to establish that the Petitioner's income was over the HMP limit.

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 not [REDACTED] years old, and not the parent or caretaker of a minor child. There was no evidence presented that she 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% 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.

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%, the income is not reasonably compatible and the individual is required to provide proof of attested income. BEM 500, p. 5.

Based upon the foregoing, the Department has not met its burden of proof that it correctly determined that Petitioner was not eligible for HMP based upon excess income, and it does not demonstrate that it reinstated the Petitioner's MA case for [REDACTED]. In addition, it failed to demonstrate that it properly denied the Petitioner's HMP based upon excess income.

### **DECISION AND ORDER**

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 denied the Petitioner's application for SER for failure to verify proof of copayment, contribution or shortfall.

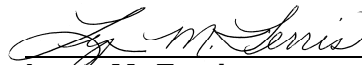
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of proof showing that it acted in accordance with Department policy when it determined the Petitioner's income exceeded that HMP limit.

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 reregister the Petitioner's SER application and process the copayment verification as timely received and determine Petitioner's eligibility for SER.
2. The Department shall process proof of copayment, and supplement Petitioner for SER assistance that she was eligible to receive but did not from the application date.
3. The Department shall reinstate the Petitioner's MA HMP case effective [REDACTED] [REDACTED] ongoing and shall determine the Petitioner's income and eligibility for HMP in accordance with Department policy. The Department shall seek further verification if necessary to determine Petitioner's income for the redetermination month as required by Department policy.
4. The Department shall provide the Petitioner written notice of its decisions regarding SER and MA.

LMF/jaf



**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]

**Petitioner**

[REDACTED]

Via email

[REDACTED]