



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: November 22, 2016
MAHS Docket No.: 16-014364
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 November 1, 2016, from Lansing, Michigan. [REDACTED] (Petitioner) appeared and represented herself. [REDACTED] Eligibility Specialist, represented the Department of Health and Human Services (Department).

The Department offered the following exhibits which were admitted into evidence: **[Department's Exhibit 1:** Hearing Summary (page 1), Request for Hearing (pages 2-3), Petitioner's notes re: income (page 4), Letter from Petitioner's employer ([REDACTED]) (page 5), Petitioner's pay statement (pages 6-7), Petitioner's employment calendar (page 8), Health Care Coverage Determination Notice (pages 9-12), Federal Poverty Level Guidelines (pages 13-15), Bridges Projected Annual Income-Summary (page 16), Bridges Employment Budget-summary (page 17), Bridges Employment Pay Details (pages 18-19), Wage Match Client Notice (pages 20-23) and Wage Match Client Notice (pages 24-25), and Bridges Relationship Details (page 26).

The Department's ES worker testified at the hearing, but Department did not call any additional witnesses.

Petitioner testified on her own behalf, but did not offer any witnesses. Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's eligibility for 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. Petitioner had an MAGI group size of 2 at all relevant times. [Department's Exhibit 1, pp. 16, 26].
2. On May 5, 2016, Petitioner submitted an electronic application seeking MA benefits through the marketplace.
3. The Department, in error, determined that Petitioner had \$ [REDACTED] for projected income and automatically certified the application. [Dept. Exh. 1, p. 16].
4. The Department later became aware that Petitioner may have income from employment that was not properly budgeted.
5. On June 21, 2016, the Department mailed Petitioner two Wage Match Client Notice forms to be completed by Petitioner's employers and returned to the Department. [Dept. Exh. 1, pp. 20-25].
6. On July 18, 2016, the Department received the completed Wage Match Client Notices, which indicated the following:
 - a. Petitioner was seasonally employed at [REDACTED], is paid biweekly, and had the following relevant earnings: (1) \$ [REDACTED] on June 9, 2016, (2) \$ [REDACTED] on June 23, 2016, and (3) \$ [REDACTED] on July 7, 2016. [Dept. Exh. 1, p. 22].
 - b. Petitioner was previously employed at [REDACTED] through [REDACTED], but her employment ended on June 22, 2016. [Dept. Exh. 1, p. 25].
7. On September 14, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606), which indicated that, effective October 1, 2016, she was not eligible for MA because her annual income of \$ [REDACTED] exceeded the income limit of \$ [REDACTED] [Dept. Exh. 1, pp. 9-12].
8. On September 26, 2016, Petitioner requested a hearing to dispute the denial of the application. [Dept. Exh. 1, pp. 2-3].

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 the instant matter, the Department denied Petitioner's application for MA due to excess income. According to the Department, Petitioner's projected annual income initially indicated \$[REDACTED] but after the Department obtained income verification via a Wage Match, Petitioner's projected annual income was \$[REDACTED] which was over the \$[REDACTED] income limit. Petitioner disagrees with the Department's decision to deny her application and challenges the Department's calculations of her annual income. Petitioner contends that she has seasonal employment and that the Department inaccurately calculated her projected income. Petitioner alleges that she will make \$[REDACTED] in 2016.

The central issue in this matter concerns the Department's calculation of Petitioner's annual income for purposes of MA eligibility. Eligibility for the Healthy Michigan Plan is determined through the Modified Adjusted Gross Income (MAGI) methodology.

Modified Adjusted Gross Income (MAGI) is a methodology used to determine financial eligibility for Medicaid. It is based on Internal Revenue Service rules and relies on federal tax information. Bridges Program Glossary (BPG) (10-1-2015), page 40. 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. BEM 500 (1-1-2016), pp. 3-4.

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. BEM 500, p. 4.

Wages is defined as the pay an employee receives from another individual organization or S-Corp/LLC. Wages include salaries, tips, commissions, bonuses, severance pay

and flexible benefit funds not used to purchase insurance. BEM 501 (7-1-2016), p. 6. The Department must enter an employee's regular wages paid during a vacation or illness as earned income. BEM 501, p. 6.

The following are acceptable verification sources for wages, salaries and commissions: (1) check stubs or earnings statement, (2) DHS verification of employment forms, for example DHS-38, Verification of Employment, (3) employer signed statement providing all necessary information, (4) employer generated work schedule, when pay frequency, pay day and rate of pay are known. When this source is used, select **other acceptable** as the verification source, (5) the Work Number, (6) employment services contractors including the one-stop service center, the work participation provider and refugee employment services contractors, and starting or increasing income. Select this verification source when an individual reports starting or increasing income, other than at application or redetermination. No VCL will be produced. BEM 501, p. 11. [Emphasis in Original].

A group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505 (7-1-2016), p. 1.

Policy requires the Department get input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505, p. 1.

The Department follows BEM 530 when budgeting income for purposes of MA. BEM 530 (1-1-2014), p. 1. For SSI-Related MA, the Department determines income eligibility on a calendar month basis. The Department uses one budget to determine income eligibility for multiple months if the circumstances for each of the months are identical. BEM 530, p. 1.

For an MA applicant, the Department determines income eligibility in calendar month order beginning with the oldest month. In addition, the Department will do a future month budget to determine ongoing income eligibility, deductible status or post-eligibility PPA when a change in circumstances occurred in the processing month or a change is anticipated for the future month. BEM 530, p. 1.

For non-averaged income, the Department will use amounts that will be, or are likely to be, received/available in the future month. However, there are two exceptions: (1) Do not budget an extra check (example, fifth check for person paid weekly). If prospecting income based on bi-weekly or twice a month payments, multiply by 2. If prospecting income based on weekly pay, multiply by 4. (2) Base estimate of daily income (example: insurance pays \$■ for every day in hospital) on a 30-day month. BEM 530, p. 3.

When the amount of income from a source changes from month to month, the Department will estimate the amount that will be received/available in the future month. For averaged income, the Department uses the monthly average amount if this month is one of the months used to compute the average. BEM 530, p. 3.

The Department employs a practice known as “prospecting income” when it determines a person’s future income. Prospecting income means arriving at a best estimate of the person’s income. Policy requires the Department prospect income when estimating income to be received in a processing or future month. The best estimate may not be the exact amount of income received. BEM 530, p. 3.

Sometimes a person’s income will fluctuate for several reasons. For example, a person’s hours in a month may fluctuate or the amount of tips may vary from payday to payday. For fluctuating earned income, the Department must use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings. BEM 530, pp. 3-4.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, Petitioner asserts that the Department should not have included her income from [REDACTED] because her employment terminated on or about June 22, 2016. Petitioner further argues that the Department miscalculated her earnings from [REDACTED] [REDACTED] [REDACTED]. According to Petitioner’s projected calculations, she will earn \$ [REDACTED] for 2016. [Dept. Exh. 1, p. 4].

However, the record shows that the Department properly budgeted Petitioner’s income eligibility by prospecting income pursuant to BEM 530, p. 3. The record shows that Petitioner had \$ [REDACTED] in projected earned income from her employment with [REDACTED] [REDACTED] [REDACTED]. This was based on Petitioner’s June 9, 2016, paycheck in the amount of \$ [REDACTED] and \$ [REDACTED] on June 23, 2016. (\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] for June 2016). The Department representative who appeared at the hearing credibility testified that the Department did not include her income from [REDACTED] for July 2016. Based on the verifications the Department used in this case (i.e., Watch Match verifications from [REDACTED] [REDACTED] [REDACTED] [REDACTED] her projected income was accurate. Under BEM 503, the Department, for non-averaged income, properly used the amounts that will be, or are likely to be, received/available in the future month. Here, Petitioner applied for MA in May and the Department properly projected her annual income using the June 2016 wage verifications going forward. Petitioner’s own calculations are not what the Department should utilize when it projects her income for purposes of MA eligibility.

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 acted in accordance with Department policy when it determined that Petitioner was excess income for MA using the MAGI methodology.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell

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]