



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: January 30, 2017
MAHS Docket No.: 16-017473
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 January 25, 2017, from Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED] [REDACTED] Hearing Facilitator/Eligibility Specialist, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1:** Hearing Summary (page 1), Hearing Summary Narrative (page 2), Pre-Hearing Conference Letter (page 3), Request for Hearing (pages 4-6), Application for Assistance (pages 7-16), Authorization (page 17), Health Care Supplemental Questionnaire (pages 18-20), Verifications from Petitioner (pages 21-22), Health Care Supplemental Questionnaire (pages 23-25), Income verifications (pages 26-27), Health Care Coverage Determination Notice (pages 28-33), Health Care Coverage Determination Notice (pages 34-39), Bridges Self-Employment Summary (page 40) and Bridges Unearned Income Budget- Summary (page 41)].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine that Petitioner was not eligible for Medical Assistance (MA) or "Medicaid" benefits 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. Petitioner is self-employed as a social worker and is a licensed mental health therapist. [Department Exhibit 1, p. 25].
2. On September 28, 2016, [REDACTED] submitted an electronic application for health care coverage on behalf of Petitioner. [Dept. Exh. 1, pp. 7-17].
3. Before the Department completed the process of determining Petitioner's MA eligibility, the Department mailed Petitioner a Health Care Coverage Determination Notice, which conditionally approved her for MA under the Healthy Michigan Plan (HMP) effective September 1, 2016. [Hearing Testimony].
4. While processing Petitioner's application, the Department discovered that Petitioner indicated that she received \$ [REDACTED] in net income for the current month. This figure did not coincide with Petitioner's reported income according to the MAGI income tax information. [Dept. Exh. 1, p. 12].
5. In an attempt to obtain clarification, the Department mailed Petitioner a Health Care Coverage Supplemental Questionnaire (DHS-1004) on September 30, 2016. [Dept. Exh. 1, pp. 18-20].
6. On or about October 5, 2016, the Department received a completed DHS-1004, which indicated, among other things, that Petitioner's household group size was 2 (Petitioner and her husband) and that Petitioner received \$ [REDACTED] per month and that her husband received \$ [REDACTED] per month from unemployment. [Dept. Exh. 1, pp. 18-21].
7. On or about October 24, 2015, the Department received income verifications from Petitioner. [Dept. Exh. 1, pp. 21-25].
8. On or about October 26, 2016, the Department received additional income verifications from Petitioner. [Dept. Exh. 1, pp. 26-27].
9. Although Petitioner's income information was not definitive, the Department failed to send Petitioner any verification requests concerning self-employment. [Hearing Testimony].
10. On November 2, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606), which determined that Petitioner, effective September 1, 2016, was not eligible for health care under any MA category due to excess income. [Dept. Exh. 1, pp. 29-39].

11. On November 17, 2016, Petitioner requested a hearing to dispute the Department's denial of MA benefits. Petitioner alleges the Department erred when it calculated the group size and her household income.

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.

MA is also referred to as "Medicaid." The Medicaid program comprise several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BAM 105, (4-1-2016), p. 1.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BAM 105, p. 1. 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), page 40.

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.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BAM 105, p. 1.

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2

categories. Group 2 categories are considered a limited benefit because a deductible is possible. BAM 105, p. 1.

The Department uses BEM 530 (1-1-2014) to determine a person's income eligibility for SSI-Related MA. The Department determines income eligibility on a calendar month basis and will use one budget to determine income eligibility for multiple months if the circumstances for each of the months are identical. BEM 530, p. 1.

When determining ongoing income eligibility, the Department prepares a future month budget when a change in circumstances occurred in the processing month or a change is anticipated for the future month. BEM 530, p. 1.

SSI-related MA budgets, the Department averages only self-employment income and will convert self-employment income which is received less often than monthly to a monthly amount based on past and/or estimated future proceeds and allowable expenses. BEM 530, p. 2.

For Group 2 MA budgets, the Department averages income received in one month which is intended to cover several months. Then, the Department divides the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months. BEM 530, p. 2.

The Department will prospect income when estimating income to be received in a processing or future month. When prospecting income, the Department will use the following guidelines:

- Expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings. BEM 530, pp. 3-4.
- Paystubs showing year-to-date earnings and frequency of pay. BEM 530, p. 4.
- One paystub is sufficient information if it reflects the hours and wages indicated on the application. BEM 530, p. 4.
- For a pay rate change or increase/decrease in hours worked, the Department uses the new amount (even if not reflected on the paystubs). BEM 530, p. 4.
- The worker should talk to the client to establish best estimate of income. BEM 530, p. 4.

The Healthy Michigan Plan (HMP) provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137 (1-1-2016), p. 1. HMP income eligibility is based on the MAGI methodology. BEM 137, p. 1.

In order to be eligible for HMP, the individual must be aged 19 or older and under age 65 and have income limits at or below 133 percent of the federal poverty limit. See 42 CFR § 435.119 (b). The Health Care Coverage Determination Notice provides a chart of the annual income limits for HMP.

For all types of assistance, the Department must follow BEM 502 (7-1-2016), when determining the amount of income from self-employment. The Department is required to verify countable income at application for all types of assistance, except Children Under 19. BEM 502, p. 6.

To obtain self-employment verifications for Medicaid, the Department must utilize the Schedule C, Profit or Loss From Business as the primary source of verification. BEM 502, p. 7. This form is generally used in conjunction with IRS form 1040, 1040NR or 1041. Schedule C is acceptable even if not yet filed with the IRS. The DHS-431, Self-Employment Statement is not acceptable verification for Medicaid purposes. BEM 502, p. 7.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. During the hearing, the Department representative testified that the Department erred when it closed Petitioner's MA case. According to the Department representative, the individual who processed Petitioner's September 28, 2016, MA application failed to properly obtain the necessary and relevant verifications pertaining to Petitioner's self-employment income. The Department representative indicated that Petitioner's application should be reprocessed and that the Department should redetermine Petitioner's MA eligibility. Petitioner did not dispute this and had no objection to the Department's position in this matter. The parties do not disagree about the relevant facts in this matter and there is no longer an active dispute for the Administrative Law Judge to decide at this point.

The Department failed to properly determine that Petitioner was not eligible for MA benefits due to excess income. The issue is not whether Petitioner is or is not income eligible, the question is whether the Department followed policy when it processed Petitioner's application for MA benefits. The Department was aware at the onset that Petitioner was self-employed. The Department was also aware that Petitioner had listed monthly income of \$ [REDACTED]. Based on the testimony of the Department representative at the hearing, the Department failed to properly obtain verification of Petitioner's self-employment income.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department did not properly determine Petitioner's eligibility for MA benefits based on the available income information.

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 case.

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 reprocess and re-register Petitioner's September 28, 2016, application for health care benefits (MA).
2. The Department shall obtain any necessary and relevant verifications of Petitioner's group size, assets and income to the extent required by policy.
3. The Department shall provide Petitioner with written notification of its decision.
4. The Department shall provide Petitioner with supplemental and/or retroactive benefits to the extent required by policy.

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]