



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 10, 2017
MAHS Docket No.: 16-017752
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 18, 2017, from Detroit, Michigan. The Petitioner was present at the proceeding and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Healthy Michigan Plan (HMP) – Medical Assistance (MA) coverage effective December 1, 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 HMP benefits.
2. Petitioner is 57-years-old and his household consists of his mother (73-years-old) and his son (9-years-old).
3. Petitioner indicates that he is the only member of the household who receives income, which consists of approximately [REDACTED] in monthly employment income [REDACTED]). Exhibit A, pp. 4-5.

4. For Petitioner's 2015 federal income tax return, he claimed both his mother and son as tax dependents (total tax household composition of three). Exhibit A, pp. 6-7.
5. For the 2016 federal income tax return, Petitioner plans to file the same type of tax return and claim both his mother and son as tax dependents (total tax household composition of three).
6. On October 17, 2016, the Department sent Petitioner a Wage Match Client Notice, which was due back on November 16, 2016.
7. On November 14, 2016, Petitioner submitted verification of his employment income. Exhibit A, pp. 4-6.
8. Upon receipt of Petitioner's employment income, the Department redetermined his eligibility for the HMP program and found him not eligible due to excess income for a household size of one.
9. On November 17, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that he was not eligible for HMP benefits effective December 1, 2016, due to excess income. Exhibit A, pp. 9-10.
10. On November 28, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, 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.

MA is available (i) under Supplemental Security Income (SSI)-related categories to individuals who are aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled or (ii) for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and HMP based on

the Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (October 2016), p. 1. The evidence at the hearing established that the most beneficial MA category available to Petitioner was HMP.

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. The Healthy Michigan Plan 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, p. 1.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Meet Michigan residency requirements
- Meet Medicaid citizenship requirements
- Have income at or below 133 percent Federal Poverty Level (FPL) Cost Sharing.

BEM 137, p. 1.

Before determining whether Petitioner's income is at or below 133% of the FPL, the Department must first determine Petitioner's household composition. The size of the household will be determined by the principles of tax dependency in the majority of cases. MAGI Related Eligibility Manual, *Michigan Department of Community Health (DCH)*, May 2014, p. 14. Available at http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

In this case, the Department determined Petitioner's household composition was one. The Department argued that Petitioner's income exceeded the HMP income limits for a household size of one. Specifically, the determination notice indicated that Petitioner's annual income was [REDACTED], which exceeded the HMP income limit of \$ [REDACTED] for a household size of one. See Exhibit A, p. 10. However, the undersigned Administrative Law Judge (ALJ) concludes that the Department did not properly calculate Petitioner's household composition.

As part of the evidence record, Petitioner provided his 2015 federal income tax return, in which he claimed both his mother and son as tax dependents (total tax household composition of three). Exhibit A, pp. 6-7. Furthermore, Petitioner testified that he plans to file the same type of tax return for the 2016 year. Based on this statement, Petitioner's claims that his household composition will be three (Petitioner plus two tax dependents).

The Department manual differentiates between tax filers and non-tax filers. The household for a tax filer, who is not claimed as a tax dependent, consists of: (i) individual; (ii) individual's spouse; and (iii) tax dependents. MAGI Related Eligibility Manual, p. 14.

Furthermore, 42 CFR 435.603(f)(1), basic rule for taxpayers not claimed as a tax dependent states the following:

In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as a tax dependent

Based on the above policy manuals and federal regulations, the Department did not properly determine Petitioner's household composition. Instead, Petitioner's household composition should be three, Petitioner plus his two tax dependents that he expects to claim. Petitioner provided credible evidence and testimony showing that he expects to file a tax return for 2016 and claim two tax dependents as he previously did for his 2015 tax return. See MAGI Related Eligibility Manual, p. 14 and 42 CFR 435.603(f)(1) – (f)(5).

Because the undersigned ALJ concludes Petitioner's household composition is three, the HMP income limit now increases to ██████████0 as that amount represents 133% of the poverty guidelines for a household size of three. See Exhibit A, p. 10. Because the Department improperly determined Petitioner's household composition for HMP purposes, it improperly closed his HMP case effective December 1, 2016. As such, the Department will redetermine Petitioner's MA eligibility for December 1, 2016, ongoing.

It should be noted that Petitioner claims he is the only household member who receives monthly employment income of ██████████. At first glance, Petitioner's monthly income would be below the HMP income limit of ██████████0 (for a household size of three ██████████ divided by 12 months). However, now that Petitioner's household size has increased to three for MAGI-related purposes, the Department has to redetermine his HMP eligibility and determine if the household members have countable income, if any.

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 improperly closed Petitioner's HMP – MA coverage effective December 1, 2016.

Accordingly, the Department's MA 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. Redetermine Petitioner's HMP – MA eligibility for December 1, 2016, ongoing (for MAGI related groups household composition is three);
2. Issue supplements to Petitioner for any HMP - MA benefits he was eligible to receive but did not from December 1, 2016, ongoing; and
3. Notify Petitioner of its decision.

EF/tm



Eric J. Feldman
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]
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