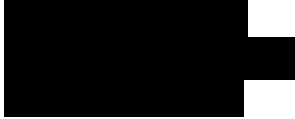




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: February 14, 2017  
MAHS Docket No.: 16-019152  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 February 8, 2017, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED].

### **ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA)?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 6, 2016, Petitioner applied for Medicare Cost Share (MCS) (Exhibit A Pages 5-18), an MA program that pays the Part B Medicare premiums.
2. Petitioner receives \$ [REDACTED] per month for Retirement, Survivors, and Disability Insurance (RSDI), and \$ [REDACTED] per month from a pension through his former employer.
3. On December 13, 2016, the Department mailed to Petitioner a Health Care Coverage Determination Notice (Exhibit A Pages 20-21) informing him that his income exceeded the countable income limit of \$ [REDACTED] for the Additional Low Income Medicare Beneficiaries (ALMB) benefits and therefore his application was denied.

4. The Department received Petitioner's hearing request on December 20, 2016, protesting the denial of his application.

### 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 Department has established limits for Medicare Savings Program eligibility, and those are found in RFT 242 (10/1/16). For those in a group of one with countable income of up to \$ [REDACTED] they can get full-coverage Qualified Medicare Beneficiaries (QMB). If their countable income is more than \$ [REDACTED] but not more than \$ [REDACTED] they can get limited-coverage QMB, or Specified Low-Income Medicare Beneficiaries (SLMB). With countable income of more than \$ [REDACTED] but less than \$ [REDACTED] they can get Additional Low-Income Medicare Beneficiaries (ALMB). Those income levels are based upon federal poverty levels. QMB eligibility is limited to net income of 100% of poverty. SLMB is available for net income of 100% to 120% of poverty. ALMB is available for net income of 120% to 135% of poverty. BEM 165 (10/1/16) p. 1.

The Department is to "Determine countable income according to the SSI-related MA policies in BEM 500, 501, 502, 503, 504 and 530, except as explained in COUNTABLE RSDI in this item. Apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income." BEM 165 p. 8. For countable RSDI, the Department will, for January, February, and March, disregard a cost-of-living increase that was effective beginning in January of the calendar year. *Id.* The applicant also receives a \$ [REDACTED] general exclusion from unearned income. What is not spelled out with any clarity at all is that the income limits shown in RFT 242 includes the \$ [REDACTED] disregard. When someone looks at the chart, the initial assumption is that a person would be eligible if, for example, their countable income does not exceed \$ [REDACTED] in ALMB. That is not the case. The income limit is actually \$ [REDACTED]. This is something that has been pointed out to the Department in the past, but they have not made any noticeable effort to clarify the tables.

In this case, Petitioner has unearned income from RSDI and his pension of \$ [REDACTED]. He is given the \$ [REDACTED] unearned income general exclusion, also known as the \$ [REDACTED] disregard, leaving him with net unearned income of \$ [REDACTED]. For the first three


months of the year, the Department excludes the \$ [REDACTED] that he received, which leaves him with \$ [REDACTED] in countable income. One would think, from looking at RFT 242, that he meets the income limit for ALMB, since it shows an income limit of \$ [REDACTED]. But, as explained above, the real limit is \$ [REDACTED]. He is, unfortunately over the income limit by \$ [REDACTED] and therefore he is not eligible for any MSP benefits.

### **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 acted in accordance with Department policy when it denied Petitioner's application for MSP.

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

DJ/nr

  
\_\_\_\_\_  
Darryl Johnson  
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]

**Petitioner**

[REDACTED]