



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: February 6, 2017
MAHS Docket No.: 16-019285
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], Eligibility Specialist; and [REDACTED], Regulation Agent, Office of Inspector General (OIG), appeared as a witness.

ISSUE

Did the Department properly place the Petitioner on a Medical Assistance (MA) spenddown?

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 was an ongoing recipient of MA (full coverage) Group 2 caretaker.
2. The Department issued a Health Care Coverage Determination Notice (HCCDN) dated [REDACTED], imposing a monthly deductible of \$ [REDACTED] and also determined that the Petitioner was not eligible for Healthy Michigan Plan (HMP) due to excess income.
3. The Department based the change in coverage based upon a fee investigation, which determined that Petitioner's husband was living in her household and included her husband's income in the MA group income. Exhibit 1.

4. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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 this case, the Petitioner's MA was changed based upon a fee investigation conducted by the OIG. Exhibit 1. At the hearing, the Department presented an Investigation Report prepared by [REDACTED], a Regulation Agent with the OIG. The determination that the Petitioner's spouse was living with her was based upon the address the Petitioner's husband gave to his employer and a Clear Report. The Petitioner credibly testified under oath that she is still married to her husband and that they do not live together and have not lived together since [REDACTED]. In addition, the Petitioner also asserted that she has no control over the address the Petitioner's husband listed with his employer. In addition, the Petitioner receives child support from her husband. The Petitioner also testified that the utilities for her house are in her name only. This testimony was not rebutted by the Department.

The Department Regulation Agent testified that she never attempted to speak to Petitioner's husband based upon phone number in the Clear Report and did not speak to the Petitioner or check to see if she was receiving child support from her husband and who paid the utilities. The report from the employer indicated date of hire for Petitioner's husband by his employer in [REDACTED] which was the same year Petitioner testified that she and her husband stopped living together. Petitioner also advised that her husband lived at [REDACTED].

The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual and, **if living with the individual:**

Individual's spouse

The individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student

Group 2 Fiscal Groups

Determine the fiscal and asset groups separately for each person requesting Medicaid. The fiscal group must be determined separately for each person. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons **who live with the individual**:

The individual's spouse, and

The individual's parent(s) if the individual is a child. BEM 211 (January 1, 2016) pp. 2 and 8.

Based upon the evidence presented, it is determined that the Department did not meet its burden of proof to establish that Petitioner's husband lived with her and thus, did not properly include her spouse's income in the MA group income when determining MA eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner's husband was living in her household and added the Petitioner's husband income to the group when determining MA eligibility.

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 redetermine the Petitioner's MA eligibility for [REDACTED] and shall not include the Petitioner's spouse income in the MA group income.
2. The Department shall provide the Petitioner written notice of its determination.

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]

[REDACTED]