



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 14, 2017
MAHS Docket No.: 16-019426
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 9, 2017, from Lansing, Michigan. The Petitioner was represented by himself and his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED] [REDACTED] and Enhanced Site Support [REDACTED] [REDACTED].

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 was receiving MA for his three children.
2. On December 5, 2016, Petitioner submitted a completed Redetermination (Exhibit A Pages 3-10) for the purpose of continuing the MA.
3. Petitioner and his wife are covered by health insurance through his employer; they have coverage available through the employer for the children but they consider the premiums to be cost-prohibitive.

4. On December 16, 2016, the Department mailed to Petitioner a Health Care Coverage Determination Notice (Pages 11-15), approving the three children for MA beginning January 1, 2017, with a \$ [REDACTED] monthly deductible.
5. Petitioner submitted a pay stub (Page 16) showing his gross bi-weekly wages to be \$ [REDACTED] and another pay stub showing his wife's gross bi-weekly wages to be \$ [REDACTED] (Exhibit 1 Page 6, handwritten notes).
6. Deducted from Petitioner's gross pay are taxes totaling \$ [REDACTED] \$ [REDACTED] for vision insurance premiums, \$ [REDACTED] for a health savings account, \$ [REDACTED] for medical insurance, and \$ [REDACTED] to a 401(k).
7. Deducted from his wife's gross pay are taxes totaling \$ [REDACTED]
8. The Modified Adjusted Gross Income (MAGI) limit for a group of five to be eligible for MiChild is \$ [REDACTED] per week, and \$ [REDACTED] per year (Pages 18-19).
9. On December 27, 2016, Petitioner requested a hearing, contending his MAGI is \$ [REDACTED] (Page 21).

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.

As explained in BEM 500 (1/1/6) p. 3-4, "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."

"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." Included in "gross income" are income taxes, health or life insurance premiums, Medicare premiums, union dues, loan payments, garnishments, and court-ordered or voluntary child support payments. *Id* at 4-5.

The Internal Revenue Service defines “adjusted gross income” (AGI) as “gross income minus adjustments to income.” <https://www.irs.gov/uac/definition-of-adjusted-gross-income> AGI includes adjustments for items such as:

- Self-employed retirement and IRA contributions
- Half of self-employment taxes paid
- Alimony payments
- Health savings accounts or self-employed health insurance payments
- Student loan interest and qualified tuition costs

<https://www.irs.com/articles/adjusted-gross-income-agi-vs-modified-adjusted-gross-income-magi>

Once those items are subtracted from income, the result is the AGI. MAGI is AGI plus any untaxed foreign income, non-taxable Social Security benefits, and tax exempt interest. <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/> There was no evidence offered to show that any such amounts would be added back to Petitioner’s AGI, and therefore his MAGI is presumed to be the same as his AGI.

Petitioner submitted a packet of documents which were admitted as Exhibit 1. He has contended his AGI is the same as his federal taxable wages. (Exhibit 1 Page 7.) His position is that his gross income should be reduced by the premiums he pays for vision insurance, a health savings account, medical insurance, and his 401(k) contributions. (Exhibit 1 Page 8.)

Petitioner is not self-employed and thus he is not allowed to deduct his 401(k) contributions. Vision insurance is not health insurance, and thus is not deductible. Health insurance payments are only deductible by the self-employed. The only deduction he is allowed to take would be the \$ [REDACTED] he contributes bi-weekly to the health savings account. His bi-weekly income is \$ [REDACTED] which is \$ [REDACTED] annually. His wife’s bi-weekly income is \$ [REDACTED] which is \$ [REDACTED]. When their income is combined, the total is \$ [REDACTED]. After deducting the [REDACTED] that is contributed annually to the health savings account, they are left with [REDACTED] of \$ [REDACTED]. The annual income limit for a group of five to be eligible for MiChild is \$ [REDACTED].

The Department can apply a 5% disregard, which “is the amount equal to 5 percent of the Federal Poverty Level for the applicable family size.” BEM 500, p. 6. That allows the Department in some cases to disregard 5% of the \$28,440 federal poverty level for a group of five. In other words, the Department can reduce an applicant’s AGI by \$ [REDACTED] but “only if required to make someone eligible for Medicaid.” *Id.* Reducing the group’s \$ [REDACTED] AGI by \$ [REDACTED] will not make Petitioner eligible for Medicaid.

Petitioner testified that he could include his children on his health insurance that is available through his employment. He and his wife are covered by his employer’s

policy, and they made the decision not to include the children because it was, in their words, "cost-prohibitive."

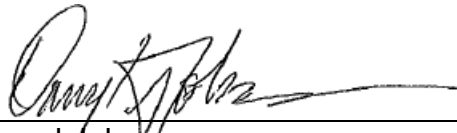
In this case, the evidence clearly establishes that Petitioner's MAGI exceeds the eligibility limits for his children to qualify for the MiChild program.

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 determined Petitioner's eligibility for MA.

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]