



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: June 30, 2017  
MAHS Docket No.: 17-005000  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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. After due notice, telephone hearing was held on June 1, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] Hearing Facilitator, and [REDACTED] Eligibility Specialist.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly close Petitioner's 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 19, 2016, Petitioner applied for medical assistance on the Federal Market Place and he was approved for Medical Assistance. Exhibit A, pp 7-17.
2. On March 21, 2017, the Department notified Petitioner that he was no longer eligible for Medical Assistance (MA) effective May 1, 2017. Exhibit A, pp 22-27.
3. On March 22, 2017, the Department notified Petitioner that he wife was also not eligible for Medical Assistance (MA) as of May 1, 2017. Exhibit A, p 28.
4. On March 31, 2016, the Department received verification of Petitioner's income he receives from the [REDACTED] on an IRS Form 1099R. Exhibit A, p 18.
5. The Department classified the income verified from the IRS Form 1099R as "Other Retirement Income." Exhibit A, pp 19-21.

6. On April 3, 2017, the Department received Petitioner's request for a hearing protesting the closure of Medical Assistance (MA).

### **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 income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining 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. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.<sup>1</sup>

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<sup>1</sup> Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf)

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

“Other retirement income” includes annuities, private pensions, military pensions, and state and local government pensions. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (April 1, 2017), p 27.

On December 19, 2016, Petitioner applied for medical assistance on the Federal Market Place. Petitioner was approved for MA benefits under the HMP category. Later, the Department determined that Petitioner was receiving income that had not been considered when determining his eligibility for HMP benefits. Petitioner receives reduced duty disability income from the Police and Fire Retirement System of the City of Detroit. The Department determined that this income should be classified as “Other Retirement Income” as defined by BEM 503, and that this income is countable towards Petitioner’s eligibility for HMP benefits. After redetermining Petitioner’s countable income, the Department determined that Petitioner was not eligible for HMP benefits based on his income and closed HMP benefits effective May 1, 2107.

The record evidence does not support a finding that Petitioner concealed his income from the [REDACTED]. The issue is whether this income is countable towards his eligibility for HMP benefits as “Other Retirement Income.” This Administrative Law Judge finds that it does not.

The income limit to participate in HMP is 133% of the federal poverty level and this income eligibility is based on MAGI. Unearned income is defined by BEM 503, and this policy item does not include any provisions for applying the definitions in that policy towards the determination of MAGI income. This income is countable towards non-MAGI benefits but MAGI income is defined in BAM 500. MAGI income is based on IRS rules and used by the federally facilitated marketplace to determine financial eligibility.

In this case, Petitioner applied for medical assistance through the Federal Market Place and was approved for benefits. The record evidence supports a finding that this approval was made in full consideration of Petitioner’s income as a retired police officer.

The IRS Form 1099R the Department relied on to determine the amount of income Petitioner receives indicates that the taxable amount of income Petitioner receives from the [REDACTED] is \$0.

The 1099R indicates that the nature of Petitioner’s income is a reduced duty disability and is therefore “in the nature of a workmen’s compensation act.” Classifying this income as non-taxable appears to be consistent with IRS rules under IRS code section 104 and applicable federal tax rules.

Section 104(a)(1) excludes from gross income amounts which are received by an employee under a workmen's compensation act (such as the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., c. 18), or under a statute in the

nature of a workmen's compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. 26 CFR 1.104-1(b).

This Administrative Law Judge finds that Petitioner's reduced duty disability income from the [REDACTED] is not countable towards his countable MAGI income.

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 Medical Assistance (MA) based on his income.

### **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:

Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) as of May 1, 2017, in accordance with policy with adequate notice to Petitioner.

KS/nr

  
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Kevin Scully  
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]