



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: June 6, 2017  
MAHS Docket No.: 17-005141  
Agency No.: [REDACTED]  
Petitioner: [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 [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearings Facilitator. [REDACTED] serviced as translator during the hearing.

### **ISSUE**

Did the Department properly determine that Petitioner is not eligible for the Healthy Michigan Plan (HMP) coverage effective [REDACTED]?

### **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 coverage.
2. Petitioner is [REDACTED] years old and her household consists of her two adult children.
3. Petitioner receives weekly employment earnings. [Exhibit A, pp. 9-13.]
4. Petitioner alleges that she files a joint tax return with her spouse, who resides out of the country; and they claim their two adult children as tax dependents.

5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that it reviewed her health care coverage and determined she was not eligible for HMP benefits effective [REDACTED], due to excess income. [Exhibit A, pp. 4-8.]
6. On [REDACTED], 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.

#### **Preliminary matter**

As a preliminary matter, on [REDACTED], the Department sent Petitioner a determination notice notifying her that her HMP coverage would close effective [REDACTED]. [Exhibit A, pp. 15-18.] However, Petitioner did not file a request for hearing to contest the Department's action until [REDACTED]. [Exhibit A, pp. 2-3.] Petitioner's hearing request was, therefore, not timely filed within 90 days of the determination notice; and therefore, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address the closure of her HMP effective [REDACTED]. BAM 600 (October 2016), p. 6. But, the Department did send Petitioner another determination notice on [REDACTED], informing her that it reviewed her health care coverage for each year and determined that she was still not eligible for HMP coverage effective [REDACTED]. [Exhibit A, pp. 4-8 and BAM 210 (January 2017), pp. 1-2 (Passive renewal process for Modified Adjusted Gross Income (MAGI) methodology Medicaid.) Petitioner's hearing request was received within 90 days of the determination notice dated [REDACTED]; therefore, the undersigned does have the jurisdiction to address her HMP eligibility effective [REDACTED]. BAM 600, pp. 1-6.

#### **HMP coverage effective April 1, 2017**

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 [REDACTED]. 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](http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf).

In this case, the Department indicated that Petitioner's household composition was one. Therefore, 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. [Exhibit A, p. 6.] It should be noted that Petitioner did not dispute the calculation of her annual income. However, the undersigned needs to first determine if the Department properly calculated Petitioner's household composition.

Petitioner alleged that she files a joint tax return with her spouse, who resides out of the country, and that they claim their two adult children as tax dependents. If this is so, then Petitioner's household composition for purposes of MAGI-related coverage would be four.

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 and see 42 CFR 435.603(f)(1) (basic rule for taxpayers not claimed as a tax dependent.)

Based on the above policy manuals and federal regulations, it would appear that Petitioner's household composition for purposes of MAGI-related coverage would be four (Petitioner, Petitioner's spouse, and her two children claimed as tax dependents). The undersigned inquired from the Department to see if it had Petitioner's previous completed Redetermination (DHS-1010) for the evidence record because this form usually has questions pertaining to Petitioner's tax filing status; however, one could not be provided. Petitioner further claimed that the only income reported in her tax return is hers. The undersigned needs this information regarding Petitioner's household composition because if her household composition size is four, then her income limit increases to \$ [REDACTED] in order to be eligible for HMP coverage. [Exhibit A, p. 6.]

Accordingly, the undersigned finds that the Department failed to satisfy its burden of showing that it properly determined that Petitioner was not eligible for HMP coverage effective [REDACTED]. Specifically, the undersigned finds that the Department failed to show that it properly determined Petitioner's household composition for MAGI-related coverage. Due to this failure by the Department regarding her actual household composition, the Department is unable to show whether or not her income actually exceeded the HMP income limits. As such, the Department needs to go back and redetermine Petitioner's household composition, dependent upon Petitioner's tax filer status. Now, this hearing decision is not concluding one way or another that Petitioner is eligible for HMP coverage because there are other eligibility factors for these benefits. Nevertheless, the burden is on the Department to show that it properly determined her HMP eligibility and the undersigned finds that it failed its burden in accordance with Department policy. MAGI Related Eligibility Manual, p. 14, and see 42 CFR 435.603(f)(1)

### **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 properly determined that Petitioner was not eligible for HMP coverage effective [REDACTED].


Accordingly, the Department's MA/HMP 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. Reinstate Petitioner MA case under the HMP program effective [REDACTED]
2. Redetermine Petitioner's HMP eligibility, including household composition, for [REDACTED], ongoing, in accordance with Department policy;
3. Issue supplements to Petitioner for any HMP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

**IT IS ALSO ORDERED** that the undersigned lacks the jurisdiction to address Petitioner's MA/HMP coverage for the period of [REDACTED].

EJF/jaf



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**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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

[REDACTED]  
  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]