



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: August 29, 2017
MAHS Docket No.: 17-008096
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 August 3, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Assistance Payment Worker [REDACTED] [REDACTED]

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility on May 30, 2017?

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 and his spouse, [REDACTED], were ongoing recipients of Medical Assistance (MA) benefits under the Healthy Michigan Plan.
2. On May 30, 2017, following a Food Assistance Program (FAP) Semi-Annual revue, Petitioner was sent a Health Care Coverage Determination Notice (DHS-1606) which stated neither he nor [REDACTED] were eligible for Medical Assistance (MA) due to excess income. The notice states that [REDACTED] Modified Adjusted Gross Income (MAGI) is \$ [REDACTED] and that [REDACTED] Modified Adjusted Gross Income (MAGI) is \$ [REDACTED]. The notice contains a table which shows that \$ [REDACTED] is the income limit for someone between the ages of 19 and 64 who is part of household with 2 members.

3. On June 8, 2017, Petitioner submitted a hearing request.

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.

Bridges Eligibility Manual (BEM) 137 Healthy Michigan Plan (10-1-2016) states that the Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. It also states that income eligibility requires Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL).

The Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (May 28, 2014) provides:

CHAPTER 7 INCOME

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.

In this case the Department asserts that they put [REDACTED] and [REDACTED] verified, gross income into the BRIDGES computer and it calculated that they are over the MAGI income limit for Healthy Michigan Plan eligibility. No formula is provided to show how the Internal Revenue Service's tax rules were applied to their gross income. Neither has any explanation been provided for how a married couple, filing their taxes jointly, have different annual MAGI incomes!

Admission of evidence during an Administrative Law Hearing on Department of Health and Human Services' matters is not strictly governed by the Michigan Rules of Evidence. In accordance with the Michigan Administrative Procedures Act (MAPA), an Administrative Law Judge may admit and give probative effect to any evidence.

However, the final decision and order must be supported by and in accordance with competent, material, and substantial evidence in the record.

The Department has an initial burden of going forward with evidence. That means they are required to provide admissible evidence which shows that their proposed action is in accordance with law and policy. Federal statutes and regulations provide citizens the right to an Administrative Law Hearing with regard to actions the Department of Health and Human Services (DHHS) takes regarding their application's for, or receipt of public assistance. The right to a hearing was developed in order to ensure the federally funded assistance programs are administered correctly and to protect citizens from the possibility of incorrect or even illegal actions taken by state agencies administering the assistance programs.

Administrative Law Hearings are legal proceedings governed by federal statutes and regulations, the MAPA and Department policy. The evidentiary requirements in an Administrative Law Hearing which derive from federal statutes, regulations and the MAPA, are not mere suggestions. Those evidentiary requirements are not over ruled by operational procedures approved by the Department through Department policy, or a lack of any such Department policy.

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 applicable law or policy when it determined Petitioner's Medical Assistance (MA) eligibility on May 30, 2017.

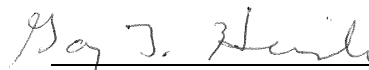
DECISION AND ORDER

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:

1. Reinstate Petitioner's Medical Assistance (MA) and re-determine Medical Assistance (MA) eligibility in accordance with applicable Department policy and law from July 1, 2017 ongoing.

GH/nr



Gary Heisler
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]