



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: April 21, 2017
MAHS Docket No.: 17-002675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 12, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jeffery Terry, Assistance Payment Worker, and Alice Gilmer, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case under the Healthy Michigan Plan (HMP)?

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 MA under HMP.
2. In connection with a [REDACTED], 2017 State Emergency Relief (SER) application, Petitioner disclosed income.
3. The Department reprocessed Petitioner's MA application in light of the income information in the SER application.
4. On February 9, 2017, the Department sent Petitioner a Health Care Coverage Determination notifying her that effective March 1, 2017 she was not eligible for

MA under HMP because her countable income exceeded the income limit for her group size.

5. On [REDACTED], 2017, the Department received Petitioner's request for hearing disputing the closure of her MA case.

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 Department received two hearing requests from Petitioner: one on [REDACTED] 2017 disputing the closure of her MA case and another on [REDACTED], 2017 disputing the denial of her State Emergency Relief (SER) application. At the hearing, Petitioner stated that she no wished to proceed with a hearing concerning the denial of her SER application. Accordingly, Petitioner's [REDACTED], 2017 hearing request is dismissed, and the hearing proceeded to address the closure of Petitioner's MA case.

The Department closed Petitioner's MA case under the HMP program after concluding that she had excess income for eligibility.

HMP is a Modified Adjusted Gross Income (MAGI)-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the MAGI methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (October 2016), p. 1.

In this case, the Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her group size. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. In this case, the Department testified that Petitioner filed taxes and did not claim any dependents. Although Petitioner testified at

the hearing that she had claimed her disabled adult child as her dependent in 2016, she admitted that the child had moved out of her household in December 2016 and she did not anticipate claiming her as a dependent for the 2017 tax year. Therefore, in determining Petitioner's MA status for 2017, the Department properly considered Petitioner as having a group size of one. BEM 211 (October 2016), pp. 1-2. 133% of the annual FPL in 2017 for a household with one member is \$16,039.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,039.80.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (January 2016), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information to determine adjusted gross income (AGI). BEM 500, p. 3.

In order to determine income in accordance with MAGI, a client's AGI is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>

In this case, Petitioner reported her biweekly income to the Department at the time she applied for MA in May 2016. Although the Department testified at the hearing that it considered that Petitioner received biweekly gross income of \$1101.15, paystubs submitted at the time of application show gross biweekly income of \$1573.07 (Exhibit D). Petitioner admitted at the hearing that she received gross biweekly earned income of \$1500. Petitioner alleged that deductions were taken from her pay by her employer for health insurance premiums and the employer pension program. Although the provided paystubs are blurry and the basis for each deduction is not entirely clear, when gross income is reduced by *all* deductions, including those for medical insurance and for a pension plan as well as those not considered in the calculation of AGI, Petitioner receives net biweekly income of \$1167.52. Even if this reduced biweekly income was considered in determining eligibility, Petitioner would have estimated annual income of \$30,342 (\$1167 times the 26 biweekly paychecks expected in a year). Because this income exceeds the HMP annual income limit of \$16,039.80 for a single-person group, Petitioner is not income-eligible for HMP.

At the hearing, Petitioner contended that she had additional reductions in her gross pay due to bankruptcy payments she was required to make. While Petitioner's bankruptcy may make her eligible to claim a bankruptcy hardship exemption to avoid the penalty for lack of health coverage (see <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/bankruptcy>), the calculation of AGI does not take into

consideration such payments. As such, Petitioner's bankruptcy payment do not affect the calculation of her income for HMP purposes.

Although Petitioner was not eligible for MA under HMP, before closing a client's MA program, the Department must conduct an ex parte review to consider the individual's eligibility for other MA categories. BAM 220 (January 2017), p. 17; BAM 210 (January 2017), p. 2. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220, p. 17. When the ex parte review shows that a recipient has indicated a disability, the Department must request additional information from the recipient needed to proceed with the disability determination, and, pending the determination, continue the recipient's MA. BAM 220, p. 18. If the recipient fails to provide the requested information after being given a reasonable opportunity to do so or if the recipient is determined following the disability determination process not be disabled for purposes of qualifying for disability-based MA categories, and eligibility under all other categories has been ruled out, the Department must send timely notice of MA case closure indicating the person is not eligible for disability-based MA. BAM 220, pp. 18-19. If, following the disability determination process, the recipient is determined disabled for purposes of qualifying for disability-based Medicaid categories, the Department continues the recipient's MA under the disability-based MA category for which the recipient is otherwise eligible. BAM 220, p. 19. MA coverage continues until the client no longer meets the eligibility requirement for any other MA category. BAM 220, p. 19.

In this case, Petitioner alleged in her [REDACTED], 2016 application that she was disabled due to rheumatoid arthritis and diabetes. (Exhibit C, pp. 4, 7). MA is available under SSI-related MA categories to individuals who are disabled. BEM 105 (April 2017), p. 1. Although the February 9, 2017 Health Care Coverage Determination Notice indicates that Petitioner was not disabled and therefore not eligible for MA for disabled individuals, there was no evidence presented that the Department assessed Petitioner's allegations of disability by requesting that she provide medical documentation verifying her disability. BAM 815 (January 2016), pp. 2-5. Because the Department failed to consider Petitioner's disability claim and eligibility for MA under SSI-related categories before closing her HMP MA case, the Department did not act in accordance with Department policy.

DECISION AND ORDER

Based on Petitioner's withdrawal of her [REDACTED], 2017 hearing request concerning the denial of her SER application, Petitioner's SER issue is DISMISSED.

With respect to her hearing request concerning MA, 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 that Petitioner was not eligible for MA under HMP

but failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that she was not eligible for disability-based MA. Accordingly, the Department's MA 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 MA coverage under HMP effective March 1, 2017;
2. Conduct an ex parte review to determine Petitioner's eligibility for disability-based MA;
3. Provide Petitioner with MA from March 1, 2017 ongoing in accordance with policy;
4. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin

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

Via Email:

DHHS Hearings Coordinator – 15 – 1843
BSC4 Hearing Decisions
EQAD
M. Best
MAHS

Petitioner – Via First-Class Mail:

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