



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: April 19, 2017
MAHS Docket No.: 17-003351
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 [REDACTED] Michigan. The Petitioner was present for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Hearings Facilitator; and [REDACTED] [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly provide Petitioner and his spouse with Medical Assistance (MA) coverage they are eligible to receive from [REDACTED], ongoing?

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 were ongoing recipients of the Healthy Michigan Plan (HMP) coverage until [REDACTED]. Exhibit B, p. 1.
2. In [REDACTED], Petitioner submitted his Semi-Annual Contact Report (contact report).
3. On an unspecified dated, the Department processed Petitioner's contact report, which resulted in him and his spouse being ineligible for HMP due to excess

income and instead, they were found eligible for Group 2 Caretaker Relatives (G2C) coverage with a monthly deductible.

4. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that he and his spouse were not eligible for HMP coverage effective [REDACTED]. Exhibit B, pp. 2-5.
5. On [REDACTED], Petitioner filed a hearing request, protesting the closure of their HMP coverage. Exhibit A, pp. 5-6.
6. On [REDACTED], the Department sent Petitioner a determination notice notifying him that he and his spouse were found eligible for the G2C (with an [REDACTED] monthly deductible) effective [REDACTED], ongoing. Exhibit A, pp. 7-8 and 10.
7. On [REDACTED], Petitioner filed a hearing request, protesting the amount of their deductible. Exhibit A, pp. 3-4.

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 a preliminary matter, Petitioner filed two separate hearings requests, one to dispute the closure of their HMP coverage and the other, to dispute the amount of their deductible. Exhibit A, pp. 3-6. This hearing decision will address both hearings request, but the undersigned Administrative Law Judge (ALJ) will first address the HMP closure below:

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 and his spouse 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 April 1, 2014. 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 and his spouse'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.

In this case, the Department indicated that Petitioner's household composition went from five to four because one of his adult children left the household. However, for purposes of MAGI-related coverage, such as HMP, the household composition is based on tax filers. Petitioner indicated that his total tax filing is five, him, his spouse, and his three children he claims as dependents. The Department acknowledged that in Petitioner's past redetermination in [REDACTED], he indicated he files a tax return for a total of five people. This is critical information to know because it can mean the difference between whether or not Petitioner and his spouse are income eligible for HMP coverage. The Department determined that Petitioner and his spouse were not eligible for HMP coverage based on a group size of four. But, if Petitioner's group size is actually five, then they might be eligible. The 2017 Poverty Guidelines indicated that the poverty guidelines for persons in family/household size of four is [REDACTED] and for five is [REDACTED]. 2017 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 26, 2017, p. 1. Available at: <https://aspe.hhs.gov/poverty-guidelines>. However, the poverty guidelines for a household size of [REDACTED] must be multiplied by [REDACTED] to obtain the 133% FPL calculation. The result is that Petitioner's annual income must be at or below [REDACTED] [REDACTED] [REDACTED]) of the FPL for a household size of four or [REDACTED] [REDACTED] [REDACTED]) for a household size of five. Thus, as the calculations show above, the income limit increased if the Department applied a household composition of five.

The Department manual differentiates between tax filers and non-tax filers. MAGI Related Eligibility Manual, p. 14. 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.

Furthermore, 42 CFR 435.603(f)(1), basic rule for taxpayers not claimed as a tax dependent states the following:

In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as a tax dependent

Based on the above policy manuals and federal regulations, the Department failed to satisfy its burden of showing that it properly determined Petitioner's household composition. As shown above, the Department needs to redetermine Petitioner's household composition, depending on their tax filer status. The Department acknowledged that it had evidence in his past redetermination that he claimed a tax filing status for five. Thus, the Department needs to go back and determine the proper household composition. See MAGI Related Eligibility Manual, p. 14 and 42 CFR 435.603(f)(1) – (f)(5). Furthermore, the Department failed to even present any evidence showing how Petitioner and his spouse were ineligible for HMP coverage effective [REDACTED], i.e., paystubs, budgets, etc. Now, this hearing decision is not concluding one way or another that Petitioner and his spouse are eligible for HMP coverage because there are other eligibility factors, which might not make them eligible. If Petitioner and his spouse are not eligible for HMP coverage, the Department must then redetermine their eligibility for the most beneficial MA coverage they are eligible to receive from [REDACTED], ongoing (i.e., G2C).

It should be noted that the undersigned will not address Petitioner's dispute with the G2C deductible of [REDACTED] effective [REDACTED], ongoing because the Department is already ordered to redetermine their eligibility for HMP coverage first.

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 acted in accordance with Department policy when it closed Petitioner and his spouse's HMP coverage effective [REDACTED], ongoing.


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 and his spouse's MA case under the HMP program effective [REDACTED];
2. Reprocess Petitioner and his spouse's HMP eligibility in accordance with Department policy;
3. If Petitioner and his spouse are not eligible for HMP coverage, redetermine their eligibility for the most beneficial MA coverage they are eligible to receive from [REDACTED], ongoing;
4. Provide Petitioner and his spouse MA coverage they are eligible to receive but did not from [REDACTED]; and
5. Notify Petitioner of its decision.

EJF/jaf



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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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