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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: August 30, 2017
MAHS Docket No.: 17-006163
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on August 2, 2017, from Pontiac, Michigan. The Petitioner did not appear for the hearing. Petitioner was represented by his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Aaron Grace, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Retroactive (Retro) Medical Assistance (MA) benefits?

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 or around [REDACTED], 2017, Petitioner submitted an application for MA benefits with a request for retro coverage going back to November 2016. As of the application date, Petitioner was employed but not working or receiving income due to an injury.
2. On February 1, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that for January 1, 2017, ongoing, he was approved for full coverage MA benefits. Petitioner was approved for MA benefits under the Healthy Michigan Plan (HMP) category. (Exhibit 1)

3. The Department did not timely process or determine Petitioner's MA eligibility for the November 2016 ongoing retro period.
4. On April 26, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that he was not eligible for MA for the retro period of November 1, 2016, to November 30, 2016, and for the period of June 1, 2017, ongoing, on the basis that he was not blind, disabled, pregnant, parent/caretaker of a dependent child or meet age requirements. (Exhibit A, pp. 13-16)
5. The Department concluded that Petitioner had excess income for the November 2016 month at issue. (Exhibit A, pp. 13-16)
6. Petitioner's AHR confirmed: that Petitioner is [REDACTED] years old; that he is not disabled; that he is not enrolled in Medicare; that he is not the parent/caretaker of any minor children; that he files taxes; that he does not claim any dependents on his tax return; and that he is not claimed as a dependent on another individual's tax return. Petitioner's household size for MA purposes is one.
7. On May 2, 2017, Petitioner requested a hearing disputing the Department's denial of his [REDACTED] 2016 retroactive MA application.

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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (October 2016), p. 1.

HMP is a 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 Modified Adjusted Gross Income (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. Retro MA coverage is available back to the first day of the third calendar month prior to the current or most recent application for MA applicants. BAM 115 (January 2017), pp. 11-14.

Petitioner, who is under age 64, not disabled, and not the caretaker of any minor children is potentially eligible for MA under the HMP. An individual is eligible for HMP if his household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Petitioner's household size for MAGI purposes is one. 133% of the annual FPL in 2016 for a household with one member is \$15,800.40. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$15,800.40 and thus, his monthly income cannot exceed \$1,316.70, as he was an applicant of MA benefits.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (January 2016), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(1) provides that "[f]inancial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size."

In this case, the Department testified that based on information it received from Petitioner's AHR indicating that Petitioner received two paystubs in November 2016, that his 2016 annual income was \$22,361 (from the 2016 W2) and based on information it obtained from the consolidated inquiry (showing fourth quarter of 2016 wages of \$5,560), it determined that Petitioner had excess income for the retro month of November 2016. (Exhibit A, p. 12; Exhibit 2; Exhibit 3). The Department testified that Petitioner was approved for MA under the HMP for the application month of [REDACTED], 2017, ongoing, as he was no longer receiving income at that time due to an injury.

While Department policy provides that MAGI groups such as those determined eligible for HMP and those which were automatically approved and certified using federal trusted data sources meet the requirements for retroactive Medicaid with no additional verification, there was no evidence that the Department approved Petitioner for HMP effective [REDACTED], 2017, ongoing, based on the information obtained from a federally trusted data source. Rather, the evidence suggests that the Department requested income verification from Petitioner, which was provided for review at the hearing. BAM 115, pp. 12-13. Thus, the standard retro MA eligibility requirements apply. BAM 115, 12-14.

Effective January 1, 2014, when determining eligibility for new applicants of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. To determine current monthly income, the State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or family size. (See Medicaid State Plan Amendment TN No: MI-13-0110-MM3 https://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf and http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5080-108153--,00.html).

The Department testified that Petitioner was not eligible for MA under the HMP for the requested retro month of November 2016 because his income was in excess of the limit for the month being tested. At the hearing, Petitioner's AHR did not dispute that Petitioner had earnings for the month of November 2016 and confirmed that his annual income as reflected on the 2016 W2 was \$22,360.66. Petitioner's AHR asserted that Petitioner was not earning income for a few months due to a work injury and stated that he receives income based on a commission and does not make money some months. Petitioner's AHR presented for review at the hearing Petitioner's 2016 W2 Wage and Tax Statement, as well as, his payroll details reflecting his federal taxable earnings for the pay dates of November 3, 2016, November 17, 2016, December 1, 2016, and December 15, 2016. (Exhibit 2; Exhibit 3).

In order to determine Petitioner's MAGI for November 2016, the Department is to use the federal taxable wages as reflected on his paystubs. A review of the paystubs presented by Petitioner's AHR, specifically, the November 3, 2016, paystub indicates that Petitioner had federal taxable earnings of \$785.34 and for November 17, 2016, federal taxable earnings of \$1,005.34. (Exhibit 3). Thus, Petitioner's MAGI for the current application month of November 2016 was \$1,790.68 and in excess of the \$1,316.70 monthly income limit for HMP.

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 denied Petitioner's MA benefits for the month of November 2016 due to excess income.

Petitioner's AHR raised additional concerns at the hearing regarding the closure of Petitioner's HMP MA case effective June 1, 2017. Upon thorough review of Petitioner's hearing request, because Petitioner did not clearly indicate that he disputed the case closure effective June 1, 2017, and the hearing request focuses on the denial of the November 2016 retro MA month, the issue regarding the case closure is not one the undersigned Administrative Law Judge has the jurisdiction to address. Petitioner's AHR was informed that should Petitioner wish to dispute the case closure effective June 1, 2017, he was required to submit a new hearing request to have the matter addressed. See BAM 600.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



ZB/tlf

Zainab A. Baydoun
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:

MDHHS-Oakland-IV-Hearings
BSC4 Hearing Decisions
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Via First-Class Mail:

Petitioner



Authorized Hearing Rep.

