



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 8, 2017
MAHS Docket No.: 17-008358
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, a telephone hearing was held on August 10, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for 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 applied for MA benefits for himself and his wife.
2. On the MA application, Petitioner reported that he receives "other income" in the amount of \$3,450 and that his wife is employed at [REDACTED] and earns biweekly income. (Exhibit A, pp. 9-10)
3. On June 2, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective May 1, 2017, ongoing, he and his wife were not eligible for MA under any category. The Notice indicates that it determined Petitioner's wife [REDACTED] had annual income of \$18,240 and Petitioner had annual income of \$41,400. (Exhibit A, pp. 5-7)

4. Petitioner confirmed: that he is ■ years old; that his wife is ■ years old; that they have not been determined disabled by a State or Federal agency; that they are not enrolled in Medicare; that they are the parents/caretakers of minor children; that they file taxes jointly and that they did claim their children as dependents on their 2016 tax filings.
5. Based on the 2016 IRS 1040 Individual Tax Return, Petitioner's household size for Modified Adjusted Gross Income (MAGI)-Related MA purposes is five and the household's adjusted gross income was \$12,378. (Exhibit 1)
6. On June 12, 2017, Petitioner requested a hearing disputing the denial of the 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 (April 2017), p. 1-4.

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.

Petitioner and his wife who are both under age 64, not disabled, and not enrolled in Medicare are potentially eligible for MA under the HMP. An individual is eligible for HMP if the 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. MAGI-Related Eligibility Manual (MREM), (May 2014) § 5. In this case, Petitioner's AHR testified that he and his wife file taxes jointly and the 2016 Form 1040 presented shows that three children are claimed as dependents. (Exhibit 1). Thus, the evidence suggests that Petitioner's household size for MAGI purposes is five. 42 CFR 435.603(f)(3). 133% of the annual FPL for a household with five members is \$38,277.40. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual MAGI cannot exceed \$38,277.40, and thus, current monthly income cannot exceed \$3,189.78, as this was a new application for 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."

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 June 2, 2017, Health Care Coverage Determination Notice (Notice) advises Petitioner that it calculated his household total annual income to be \$41,400 and that it used this amount to determine he had excess income and was ineligible for HMP MA benefits. The Notice advises Petitioner's wife that it calculated her household total annual income to be \$18,240 and that it used this amount to determine that she had excess income and was ineligible for HMP MA benefits. The Department did not explain how or why Petitioner and his wife were found to have different amounts of annual income, despite being members of the same household. Additionally, the evidence established that the Department did not apply the correct household size or income limit, as the Department did not consider or include Petitioner's children who are tax dependents as members of the household.

The Department testified that in calculating Petitioner's annual income of \$41,400, it relied on the information included with the application, specifically, that Petitioner receives \$3450 monthly in "other income." While Petitioner did not dispute that he

receives \$3450 monthly, Petitioner testified that the monthly payment is a disability payment that he receives from his employer as he was injured. Petitioner testified that the monthly payment is not considered countable or taxable by the federal government as income and it is not reported on the 2016 income tax return. Because verification of the payment was not presented for review, it was unclear whether this payment should be countable as income per MAGI policy or not countable workers compensation benefits. MREM, § 7. Thus, the Department failed to establish that Petitioner's income was in excess of the income limit for MAGI-Related MA.

Although the Department testified that it determined Petitioner's wife had income of \$18,240 consisting of her earnings from employment at [REDACTED], the Department did not sufficiently explain how the income amount was calculated. The Department stated that it relied on the information in the MA application indicating that Petitioner's wife works 30 hours weekly and is paid \$11.73 per hour, however, there was no documentation or verification presented by the Department in support of the calculation.

The 2016 income tax return provided by Petitioner for review shows that the household had adjusted gross income of \$12,378 and there was no evidence presented that the household had any tax-exempt foreign income, tax-exempt Social Security benefits, or tax-exempt interest to be added to the adjusted gross income in order to determine the group's MAGI. Therefore, based on the evidence presented, the Department failed to establish that Petitioner and his wife had household income in excess of the HMP income limit based on their group size.

Additionally, the Department did not establish that it thoroughly determined Petitioner and his wife's eligibility for all MA categories prior to the denial of the application. It was established at the hearing that Petitioner and his wife are the parents of minor children. There was no evidence presented that the Department considered their eligibility for all MA categories, including non-MAGI MA categories prior to denying the application. See BEM 105.

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 did not act in accordance with Department policy when it denied Petitioner's MA application.

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. Register and reprocess Petitioner's [REDACTED], 2017, MA application to determine his and his wife's MA eligibility for May 1, 2017, ongoing;
2. Provide Petitioner and his wife with MA coverage under the most beneficial category if eligible, from May 1, 2017, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



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-Wayne-17-Hearings
BSC4 Hearing Decisions
EQAD
M. Best
MAHS

Petitioner – Via First-Class Mail:

