



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: August 11, 2017  
MAHS Docket No.: 17-006891  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

### **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 July 13, 2017, from Detroit, Michigan. Petitioner's husband, [REDACTED], appeared on behalf of the group. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED] Eligibility Specialist.

### **ISSUE**

Did the Department properly determine that Petitioner and her husband were ineligible for Medical Assistance (MA) benefits effective June 1, 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 her husband were recipients of MA benefits.
2. On April 13, 2017, Petitioner submitted a Redetermination to the Department.
3. As a result, the Department redetermined Petitioner's eligibility for MA benefits.
4. On May 5, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice which notified him that he and his wife would not eligible for MA benefits effective June 1, 2017.

5. On May 15, 2017, Petitioner filed a Request for Hearing disputing the Department's actions.

### **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) 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. Petitioner and her husband had previously received MA benefits under parents or caretakers of children. However, that MA program has an asset limit of \$3,000.00. The Department presented sufficient evidence to show that Petitioner was over the asset limit for this program and as such, was not eligible for this program.

The evidence at the hearing established that the most beneficial MA category available to Petitioner 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.

In this case, the Department alleged that Petitioner and her husband were over the income limit for HMP. Petitioner disputed the Department's assertion. Before determining whether Petitioner'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. In this case, the Department properly determined Petitioner's household composition was four.

The analysis now turns to whether Petitioner's income was at or below 133% of the FPL. The 2016 Poverty Guidelines indicated that the poverty guidelines for persons in family/household size of four is \$24,600.00. 2017 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 31, 2017, p. 1. However, the poverty guidelines for a household size of one must be multiplied by 1.33 (133%) to obtain the 133% FPL calculation. The result is that Petitioner's annual income must be at or below \$32,718.00 (\$24,600.00 multiplied by 1.33) of the FPL for a household size of four. For monthly eligibility, the income must be at or below \$4,776.50 for a household size of four (\$32,718.00 divided by 12 months).

In this case, the Department indicated that it used two of Petitioner's pays stubs for March 2017 which included March 17, 2017 pay in the amount of [REDACTED] and March 31, 2017 in the amount of [REDACTED]. The Department also indicated that Petitioner's husband received an annual dividend in the amount of [REDACTED]. To determine the annual income, the Department took the two paystubs, added them together and then multiplied the total by 12 months which calculated to a yearly income of [REDACTED]. The Department then added the yearly dividend which should have resulted in a total household annual income [REDACTED]. The Department indicated it determined the total annual household income as [REDACTED]. The Department was unsure if it included the mandatory 5% disregard in the calculations. However, assuming that it did not, when the 5% disregard is applied to the amount used by the Department, Petitioner's household income would exceed the [REDACTED]0 allowable amount.

Petitioner disputed the amount used by the Department. Petitioner's husband provided the family's 2016 MAGI from the tax returns. The MAGI income on Petitioner's 2016 tax documents was [REDACTED]. Petitioner argued that if the Department calculated the mandatory 5% disregard, the total family annual income would have been [REDACTED] which would have been below the income limit and would have allowed for MA eligibility under HMP.

Medicaid eligibility is determined on a calendar month basis. BEM 105, p. 2. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. BEM 105, p. 2. When determining eligibility for a future month, assume circumstances as of

the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, p. 2.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. BEM 500 (January 2016), p. 3. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. BEM 500, pp. 3-4. It eliminates asset tests and special deductions or disregards. BEM 500, p. 4. Every individual is evaluated for eligibility based on MAGI rules. BEM 500, p. 4. 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. BEM 500, p. 4.

In order to determine income in accordance with MAGI, a client's adjusted gross income (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. The figure is multiplied by the number of paychecks the client expects to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. Additionally, for review, is a chart that shows common types of income countable towards a MAGI eligibility determination and with respect to federal taxable wages from employment, a client is to use federal taxable wages if indicated on a paystub and if not, use gross income and subtract amounts your employer takes out of your pay for child care, health insurance, and retirement plans. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

Additionally, federal law provides further guidance in the determination of an individual's financial eligibility for MAGI related categories. Specifically, in determining an individual's financial eligibility for a budget period, 42 CFR 435.603(h)(1) states that for applicants and new enrollees:

Financial 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.

Also, 42 CFR 435.603(h)(2) states for current beneficiaries:

For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year.

Finally, 42 CFR 435.603(h)(3) states:

In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both . . .

Based on the above policy manuals and federal regulations, the undersigned agrees that the Department should have used Petitioner's 2016 tax returns which included allowable deductions which may not be evident from paystubs alone. Accordingly, it is found that the Department improperly determined Petitioner ineligible for MA benefits.

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 determined Petitioner and his wife ineligible for MA benefits effective June 1, 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. Redetermine Petitioner's eligibility for MA benefits effective June 1, 2017;
2. Issue supplements that Petitioner was eligible to receive but did not effective June 1, 2017; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



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**Jacquelyn A. McClinton**  
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:**

[REDACTED]

**Via First-Class Mail:  
Petitioner**

[REDACTED]