



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 27, 2018
MAHS Docket No.: 17-017000
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 27, 2018, from Detroit, Michigan. The Petitioner was present and represented by Nick Gable and Anastassia Kolosova. Present on behalf of the Department of Health and Human Services (Department) was Lindsey Crandle, Eligibility Specialist and [REDACTED] [REDACTED], Assistance Payments Supervisor. The Department was represented by [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

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 MA recipient under the Transitional Medical Assistance (TMA) program.
2. On December 4, 2017, Petitioner submitted a redetermination.
3. In December 2017, Petitioner was receiving Unemployment Compensation Benefits (UCB).
4. Petitioner had income from employment.
5. Petitioner filed taxes and claimed her two children as dependents.

6. On December 20, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefit case was closing effective February 1, 2018, ongoing.
7. On December 28, 2017, Petitioner submitted 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.

In this case, Petitioner argued that the Department erred when closing her MA benefit case. Specifically, Petitioner contends that she was eligible for benefits under the Healthy Michigan Plan (HMP) program. Petitioner was previously receiving MA benefits under the TMA program. Individuals may receive TMA up to 12 months. BEM 111 (April 2015). In December 2017, Petitioner was reaching the end of her eligibility under the TMA program. Petitioner's eligibility was reviewed pursuant to a redetermination that was submitted on December 4, 2017. The Department determined Petitioner was no longer eligible for MA benefits.

The Department concluded that Petitioner was not eligible for HMP because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner filed taxes and claimed her two children dependents. One of Petitioner's children was a minor and lived in her home. Petitioner's other child was a college student and spent nine months of the year living Ohio. The Department testified that Petitioner's eligibility was assessed with and without the inclusion of her child that was attending college. In the case of an individual who expects to file a tax return for the taxable year in which a renewal of eligibility is made and does not expect to be claimed as a tax dependent, the household consists of the taxpayer and the individuals expected to be claimed as a tax dependent. 42 CFR

435.603(f)(1) and BEM 211 (January 2016), pp. 1-2. Therefore, for HMP purposes, Petitioner has a household size of three.

133% of the annual FPL in 2017 for a household with three members is \$27,158.60. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's income cannot exceed \$27,159.60 annually. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods..., a State may elect in its State plan to base financial eligibility either on current monthly household income... or income based on projected annual household income...for the remainder of the current calendar year."

Effective January 1, 2014, when determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the remaining months of the current calendar year. 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:

http://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf

In the redetermination, Petitioner reported income from the University of Michigan. Petitioner also indicated that the position was only contracted through June 2018. However, the Department testified it annualized the income over the entire year when calculating Petitioner's income. The Department testified that because the position was temporary in nature and the end date was not certain, it was not reasonably predictable.

The Department also presented documentation which shows Petitioner was receiving UCB payments at the time of the redetermination (Exhibit F). The Department testified that it also annualized the unearned income over the entire year. The Department provided no explanation as to why the UCB income was not prorated.

The Department erred when it annualized Petitioner's earned income over the entire year. Petitioner gave credible testimony that she was only contracted in her position through June 2018. It is reasonably predictable that Petitioner would experience a decrease in income after June 2018. Therefore, the Department failed to follow policy when it annualized Petitioner's earned income over the entire year.

Additionally, under Section 421.27(d) of the Michigan Employment Security Act, an individual filing a claim for benefits after January 15, 2012 is eligible for not more than 20 weeks of benefits in a benefit year. At most, within a one-year period, Petitioner would only be able to collect 20 weeks of UCB. It is with absolute certainty that Petitioner would have a decrease in unearned income, as it is not possible for her to collect UCB beyond the 20-week maximum. As such, the Department erred when it annualized the UCB over the entire year period. Therefore, the Department did not act in accordance with policy when it determined Petitioner's household income. Thus, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's MA benefit case.

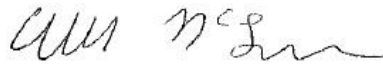
DECISION AND ORDER

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's MA benefit case.

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 MA eligibility as of February 1, 2018, ongoing;
2. Provide Petitioner with MA benefits she is entitled to receive as of February 1, 2018, ongoing;
3. Notify Petitioner of its MA decision in writing.



EM/cg

Ellen McLemore
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:



**Petitioner –
Via First-Class Mail:**



**Counsel for Petitioner –
Via First-Class Mail:**

