



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 22, 2018
MAHS Docket No.: 18-004238
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 June 21, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit 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 Freedom To Work (FTW) category.
2. On [REDACTED], 2018, Petitioner submitted an application for other benefit programs.
3. On April 5, 2018, Petitioner submitted pay statements related to the application for her income from employment (Exhibit B).
4. Petitioner was receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits.

5. On April 20, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was no longer eligible for MA benefits under the FTW category and was approved for MA benefits subject to a monthly deductible of \$1,218 effective June 1, 2018, ongoing (Exhibit A).
6. On April 26, 2018, 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 submitted a request for hearing disputing the Department's decision to transfer her from the full-coverage FTW MA category to a program with a deductible. On [REDACTED] 6, 2018, Petitioner submitted an application for other program benefits. Pursuant to the application, Petitioner submitted pay statements related to her income from employment on April 5, 2018. As a result of receiving the updated income information, the Department redetermined Petitioner's MA eligibility.

The Department determined Petitioner was no longer eligible for MA benefits under the FTW category because she exceeded the income limit under that program. As a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, p. 3. The Department determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. BEM 174, p. 3. The Department determines income deductions using BEM 540 (for children) or 541 (for adults). BEM 174. Unemployment compensation benefits are not countable income for FTW. BEM 174, p. 3.

Petitioner was not married, and per policy, her fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8. 250% of the annual FPL in 2018 for a household with one member is \$30,350. See <https://aspe.hhs.gov/poverty-guidelines>.

The Department testified it included Petitioner's earned and unearned income when determining her eligibility for FTW. The Department presented the pay statements Petitioner submitted pursuant to an application for other program benefits (Exhibit B). Specifically, Petitioner had submitted an application for Food Assistance Program (FAP) and Medicare Savings Program (MSP) benefits on [REDACTED] 2018. The Department used the pay statements with the pay dates of March 14, 2018 in the gross amount of \$[REDACTED] and March 28, 2018 in the gross amount of \$[REDACTED]. The Department testified the total monthly earned income was \$[REDACTED].

The Department also considered Petitioner's unearned income. The Department presented Petitioner's State On-Line Query (SOLQ) report (Exhibit C). The Department testified that the gross figure of \$1,067 in RSDI benefits was considered. However, the SOLQ shows that Petitioner is currently receiving \$1,089 in gross monthly RSDI benefits. The Department conceded the incorrect figure was used when determining Petitioner's unearned income.

The Department did not provide any testimony as to the exact figure that was reached regarding Petitioner's annual income. The Department merely testified as to what was used to calculate her unearned and earned income. The Department stated that based on her earned and unearned income, she exceeded the income limit under the FTW program.

Although the Department did not provide the exact calculation of Petitioner's annual income, it is clear the Department erred when determining her eligibility under the FTW program. Policy specifically states that initial eligibility exists when the client's countable income does not exceed 250% of the FPL but ongoing eligibility exists when the client's *unearned* income does not exceed 250% of the FPL. BEM 174, p. 3. As Petitioner was already an ongoing recipient of MA benefits under the FTW program, only her unearned income should have been considered to determine her ongoing eligibility. Therefore, the Department did not follow policy when determining Petitioner's MA eligibility.

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 did not act in accordance with Department policy when it determined Petitioner's MA eligibility.

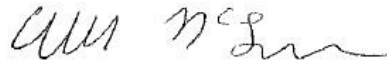
Accordingly, the Department's decision is **REVERSED**.

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 June 1, 2018, ongoing;
2. Provide Petitioner with the MA benefits she is entitled to receive as of June 1, 2018, ongoing; and
3. Notify Petitioner of its 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) 763-0155; 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

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Petitioner

