



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 31, 2018
MAHS Docket No.: 18-005093
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 July 27, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Mus Gooden, Eligibility Specialist.

ISSUE

Did the Department properly Determine Petitioner and Petitioner's husband's Medical Assistance (MA) eligibility?

Did the Department properly close Petitioner's child's MA benefit case?

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 Petitioner's husband were ongoing MA recipients under the Healthy Michigan Plan (HMP) program. Petitioner's child was an ongoing MA recipient under the MICHild program.
2. On March 2, 2018, the Department received new income from employment information for Petitioner's employer (Exhibit D).
3. Petitioner's husband was self-employed (Exhibit G).
4. Petitioner and her husband filed taxes and claimed their child as a dependent.

5. On April 25, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that her, her husband's and her child's MA benefit cases were closing effective June 1, 2018, ongoing (Exhibit A).
6. On May 14, 2018, Petitioner submitted a request for hearing.
7. On May 30, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she and her husband were eligible for MA benefits subject to a monthly deductible of \$1,146 effective June 1, 2018, ongoing (Exhibit F).

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 requested a hearing disputing the Department's decision to close her, her husband's and her child's MA benefit cases. At the hearing, the Department testified that Petitioner and Petitioner's husband's MA benefit cases were closed in error and their cases were reprocessed. On May 30, 2018, the Department issued a notice stating Petitioner and her husband were eligible for MA benefits subject to a monthly deductible of \$1,146. As the Department reinstated Petitioner's and Petitioner's husband's MA benefits with no lapse in coverage, the issue to be addressed is whether the Department properly determined their MA eligibility. The Department testified Petitioner's child's MA was not reinstated and the benefit case was properly closed.

Petitioner's child was an ongoing MA recipient under the MiChild program subject to a monthly premium of \$10. MiChild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who have no other health coverage. BEM 130 (July 2016), p. 1. Families pay a monthly premium for MiChild coverage. BEM 130, p. 1. The premium amount is \$10.00 per family per month regardless of the number of children in the family. BEM 130, p. 1. Failure to pay the premium on time may result in termination of MiChild. BEM 130, p. 1. Department specialists are not responsible for the collection of premium payments. BEM 130, p. 2. The Department will be notified if

there is a negative action entered into the system for non-payment of premiums. BEM 130, p. 2.

The Department testified that Petitioner failed to pay her monthly premium, and as a result, her child's MA benefit case was closed effective June 1, 2018, ongoing. However, the Department presented no evidence, such as the notices of overdue premiums, to support its assertion that Petitioner did not timely pay her monthly premiums. It is insufficient for the Department to merely state that Petitioner failed to timely pay her monthly premiums. The Department must present evidence to support its assertion, so it can be independently verified that policy was followed. In the absence of such evidence, the Department failed to establish that it properly followed policy when it closed Petitioner's child's MA benefit case.

Petitioner and her husband were ongoing MA recipients under the HMP program. The only income that was previously budgeted for the household was Petitioner's husband's self-employment income. However, on March 2, 2018, the Department received an employment verification from Petitioner's employer showing she had income from employment. As a result, the Department redetermined Petitioner's and Petitioner's husband's MA eligibility. The Department determined Petitioner and her husband were no longer eligible for HMP but were entitled to MA benefits subject to a deductible of \$1,146.

The Department concluded that Petitioner and her husband were not eligible for HMP because the household income exceeded the applicable income limit for their group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his/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 was married, and they claimed their child as a dependent. The household for a tax filer, who is not claimed as at tax dependent consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, in determining Petitioner and Petitioner's MAGI MA status, the Department properly considered Petitioner as having a group size of three.

133% of the annual FPL in 2018 for a household with three members is \$27,637.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and Petitioner's wife's annual income cannot exceed \$27,637.40. 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. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department presented an employment verification submitted by Petitioner’s employer to establish the calculation of Petitioner’s income from employment. The Department testified that it relied on tax documentation that was submitted by Petitioner to calculate her husband’s income. The Department did not submit the tax documents prior to the hearing. During the hearing, the Department was advised to submit the documents subsequent to the hearing. Upon review of the document, Petitioner’s husband’s AGI cannot be determined. The document submitted is a Schedule C Form 1040. Only one page of the 1040 Form was submitted (Exhibit G). As stated above, AGI is found at line 37 on the 1040 form. Exhibit G only goes through line 32. The second page of the form that contains the AGI was not submitted. It is unclear as to whether the Department failed to submit the entire document or Petitioner failed to submit the complete document to the Department. In the absence of the proper evidence to show Petitioner’s husband’s AGI, it cannot be determined that the Department properly calculated his yearly income under the MAGI methodology. Therefore, it cannot be determined that the Department correctly concluded that Petitioner and her husband exceeded the income limit under the HMP program. Thus, the Department failed to establish that it properly followed policy when determining Petitioner’s and Petitioner’s husband’s MA eligibility.

DECISION AND ORDER

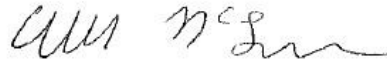
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner’s and Petitioner’s husband’s MA eligibility, as well as when it closed Petitioner’s child’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, Petitioner’s husband’s and Petitioner’s child’s MA eligibility as of June 1, 2018, ongoing;

2. Provide Petitioner, Petitioner's husband and Petitioner's child with MA benefits they are 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

Via Email:

MDHHS- Macomb-20-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

