



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: August 28, 2018  
MAHS Docket No.: 18-005581  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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, an in-person hearing was held on August 23, 2018, from Warren, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by Kathleen Scorpio-Butina, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Healthy Michigan Plan (HMP) 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 HMP recipient.
2. At all relevant times, Petitioner was employed making at least \$[REDACTED] per year.
3. At all relevant times, Petitioner was unmarried, non-pregnant, between the ages of 19-64 years, not a caretaker to minor children, and not disabled.
4. On January 24, 2018, MDHHS approved Petitioner for HMP benefits until or through March 2019.

5. On May 22, 2018, MDHHS terminated Petitioner's HMP eligibility, effective July 2018, due to excess income. (Exhibit A, p. 2)
6. On June 4, 2018, Petitioner requested a hearing to dispute the termination of HMP benefits.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Healthy Michigan Plan (HMP) is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing to dispute a termination of HMP. MDHHS presented a Health Care Coverage Determination Notice (Exhibit A, pp. 3-5) dated May 22, 2018, informing Petitioner of a termination of HMP benefits beginning July 2018. The stated basis for termination was excess income.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Internal Revenue Code. 42 CFR 435.603(e). Federal regulations require MDHHS to determine a person's financial eligibility for HMP based on a person's "household income". 42 CFR 435.603(c). Household income is the sum of MAGI-based income for each household member. 42 CFR 435.603(d).

For individuals who have been determined financially-eligible for MA 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. 42 CFR 435.603 (h)(2). 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, as evidenced by a signed contract for

employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3).

MDHHS testimony indicated that Petitioner's income was calculated from a \$[REDACTED] employment paycheck that Petitioner received on April 3, 2017. MDHHS multiplied the pay amount by 26 to convert the pay into an annual income of \$[REDACTED]. Petitioner's more recent earnings (see Exhibit A, pp. 6-12) were also indicative that Petitioner's income exceeded \$[REDACTED]. For example, Petitioner received at least \$[REDACTED] income in four consecutive quarters beginning with the second quarter of 2017. The evidence verified that Petitioner's annual income was at least \$[REDACTED].

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. For Petitioner's group size (1 person), the income limit is \$16,146.20.<sup>1</sup> Petitioner's income exceeds HMP limits.

Petitioner testified that he recently cancelled his private insurance through his employer after receiving notice that he was approved for HMP benefits to or through March 2019. Petitioner is entitled to continue receiving HMP benefits if MDHHS policy precludes a change in eligibility before the expiration of the benefit period.

An *ex parte* review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an *ex parte* review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all categories. (MAGIM (May 28, 2014), p. 23)

MAGI policy is consistent with terminating HMP eligibility during benefit periods as long as MDHHS first undertakes an ex-parte review. The purpose of an ex-parte review is to ensure that a client losing Medicaid under HMP is not eligible for Medicaid under a different category (e.g., Medicaid based on being pregnant, disabled, a caretaker to minor children...). There was no evidence that Petitioner would be eligible for any MA category other than HMP. Thus, MDHHS properly terminated Petitioner's HMP eligibility based on excess income.

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<sup>1</sup> See <https://aspe.hhs.gov/poverty-guidelines>

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's HMP eligibility effective July 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



**Christian Gardocki**

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**

Lauren Casper  
MDHHS-Macomb-20-Hearings

**Petitioner**

[REDACTED]  
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