



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-006045
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 2, 2018, from Lansing, Michigan. Petitioner was represented by his Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Shanna Ward, Eligibility Specialist.

Respondent's Exhibits 1-32 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Medical Assistance (MA) for being over the income limit?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2018, the Department received a Health Care coverage Application from Petitioner.
2. On March 19, 2018, a healthcare notice was sent notifying the Petitioner that MA was closing April 1, 2018, for failure to return verification.

3. On June 5, 2018, Petitioner filed a request for hearing to contest the negative action.
4. The Department determined that the Health Care Notice was sent in error.
5. Medical Assistance was reinstated.
6. On June 6, 2018, a verification checklist was sent with a due date of June 18, 2018.
7. On June 15, 2018, verification information was received.
8. Petitioner's income was re-evaluated.
9. On June 19, 2018, Medicaid coverage was denied for being over the income limit. However, the income that was budgeted was determined in error to be too high.
10. On June 22, 2018, the case was reprocessed with the correct income and MA was denied for being over the income limit.
11. On June 22, 2018, the Michigan Administrative Hearing System received the hearing summary and attached documentation.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department policy dictates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. 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.

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% Federal Poverty Level (FPL) Cost Sharing.

The Healthy Michigan Plan has beneficiary cost sharing obligations. Cost sharing includes copays and contributions based on income, when applicable. Copayments for services may apply to HMP beneficiaries. Prior to enrollment in a health plan, beneficiaries are eligible to receive Healthy Michigan Plan services through the Fee-for-Service system. Copays are collected at the point of service, with the exception of

chronic conditions and preventive services. Modified adjusted gross income must be at or below 133 percent of the Federal Poverty Level (FPL). BEM 137, pages 1-3

Department policy requires the department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

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. Petitioner is a group size of one. Petitioner works seven months out of the year.

133% of the annual FPL in 2018 for a household with one member is \$16,146.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual countable income cannot exceed \$16,146.20. 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. The Department determined that Petitioner's yearly income is \$16,800.00 on March 19, 2018; \$29,244.00 on June 19, 2018; and \$17,062.00 on June 20, 2018.

The Department finally calculated that Petitioner has \$3250 monthly income for seven months. \$3,250.00 minus 25% self-employment expenses deduction = \$2437.50. \$2437.50 x seven months = \$17,062.50 in countable yearly income, which is in excess of the \$16,146.20 income limit.

However, BEM 502, page 3 states:

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts; see Farming Expenses in this item.

Example: An individual operates a retail store. Total proceeds for the month are \$3,200. Allowable expenses total \$3,800. The \$600 deficit cannot be used to offset any other income.

Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

Note: **MAGI related Medicaid uses net income as declared on the federal tax return. (Emphasis Added)**

MEDICAID

Allowable expenses include those allowed by the IRS on forms such as the Schedule C or F. Depreciation, insurance other than health insurance, utilities, legal fees and office expenses are examples of allowable expenses.

Part V, other expenses on Schedule C requires documentation from the individual. BEM 502, page 4.

Therefore, this Administrative Law Judge finds the Department has not established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when determined that Petitioner's household has excess income for purposes of Medical Assistance benefit eligibility under the circumstances. The Department has not established its case by a preponderance of the evidence presented on the record.

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, finds that the Department has not established that it properly calculated Petitioner's income for purposes of Medical Assistance benefit 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 TEN DAYS OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's Medical Assistance Budget consistent with Department policy;
2. Notify Petitioner of the Department's calculations and specific budget determination information; and
3. if Petitioner is otherwise eligible, open an ongoing Medical Assistance case effective the [REDACTED], 2018, application date.

LL/bb



Landis Lain

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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Best via electronic mail

EQADHS via electronic mail

Petitioner

[REDACTED]
MI

Authorized Hearing Rep.

[REDACTED]
MI