



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.: 18-006203  
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 himself, and his spouse, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Gregory Folsom, Hearings Facilitator.

Respondent's Exhibit pages 1-74 were admitted as evidence.

**ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA) for his spouse?

**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 an application for MA benefits for Petitioner, and his household group (including his spouse and adult offspring).
2. Petitioner submitted verification of his wife's self-employment income.

3. On June 7, 2018, a DHS 1606 Health Care Coverage Determination Notice was issued to advise Petitioner that his spouse was not eligible for MA due to excess income. (Countable income exceeds income limit for group size)
4. On June 14, 2018, the Department received a Request for Hearing.
5. On June 28, 2018, the Michigan Administrative Hearing System received the Request for Hearing, hearing summary and attached documents.

### **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.

In this case, Petitioner submitted a request for hearing disputing the Department's decision to close his wife's MA benefit case. Petitioner's wife was an ongoing MA recipient under the HMP program.

Pertinent Department Policy dictates:

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.

Retirement income includes annuities, private pensions, military pensions, and state and local government pensions. Refer to the specific sections in this item for policies regarding:

- Railroad Retirement Board benefits.
- Retirement, Survivors and Disability Insurance (RSDI).
- U.S. Civil Service and Federal Employee Retirement System.

Count the gross benefit as unearned income. (BEM 503, page 30)

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income.

Exception:

Special budgeting rules apply when determining eligibility for MAGI related Medicaid. Benefits may be 0%, 50% or 85% countable. The calculation is contained within the

MAGI rules engine. The RSDI budgetable income worksheet may be used to verify the calculation. BEM 503, page 31

The Department concluded that Petitioner's wife was not eligible to receive MA under the HMP program because the household 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 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 and his wife claimed their daughter as their 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's MA status, the Department properly considered Petitioner's wife 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 the tax documents submitted by Petitioner. Petitioner's wife completed an IRS Tax Form 1040 which shows her yearly adjusted gross income was \$27,341.00; (\$31,642.00 + \$339.00 in social security benefits - \$2,236.00 in deductible part of self-employment tax - \$2,404.00 self-employed health insurance deduction = \$27,341.00 in adjusted gross income.

Petitioner receives gross Retirement, Survivors and Disability Income (RSDI) of \$965.00 per month per State Online Query (SOLQ), which the Department determined, based on the amount, is not countable for MAGI Medicaid.

The Department determined that Petitioner's and his wife's annual countable income to be \$31,632.00 in total countable household income.

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 \$3,200.00. Allowable expenses total \$3,800.00. The \$600.00 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.

It is unclear to this Administrative Law Judge how the Department arrived at this calculation without a budget attached to the admitted documentary evidence. The Department Representative provided confusing information and conflicting amounts of income at the hearing.

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 MA 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 adequately provided explanation of how it determined Petitioner's household income amount for purposes of 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 TEN DAYS OF MAILING OF THIS DECISION AND ORDER:

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

LL/bb

A handwritten signature in cursive script, reading "Landis Lain", written over a horizontal line.

**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**

Mark Epps  
4809 Clio Road  
Flint, MI 48504

Genesee County (District 6), DHHS

BSC2 via electronic mail

M. Best via electronic mail

EQADHS via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]