



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI

Date Mailed: September 18, 2018
MAHS Docket No.: 18-008381
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's August 8, 2018, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 13, 2018, from Lansing, Michigan. [REDACTED], Petitioner's Spouse, appeared for Petitioner. Shanna Hook, Hearing Facilitator, appeared for the Department.

One exhibit was admitted into evidence during the hearing. A 26-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate Petitioner's Medical Assistance (MA) effective July 1, 2018?

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 his spouse received health care coverage from the Department through the Healthy Michigan Plan.
2. On June 4, 2018, the Department issued a Redetermination to Petitioner to obtain information from Petitioner to review his eligibility for health care coverage.
3. On June 29, 2018, Petitioner provided his response to the Department's Redetermination. Petitioner provided check stubs as proof of his income, and the check stubs showed that Petitioner had received gross pay of \$ [REDACTED] year to

date as of June 27, 2018. Petitioner did not list any information about his assets on the Redetermination.

4. The Department reviewed the information Petitioner provided and the information the Department already had on file for Petitioner, and then the Department decided that Petitioner and his spouse were ineligible for health care coverage through the Department because he had excessive income and assets. The Department found Petitioner's countable income was \$ [REDACTED] per year. The Department found Petitioner's assets were excessive based on a previously reported 401k balance of \$ [REDACTED]
5. On June 29, 2018, the Department issued a Health Care Coverage Determination Notice to Petitioner to notify Petitioner that the Department had found Petitioner and his spouse ineligible for health care coverage under the Healthy Michigan Plan for excessive income and ineligible for health care coverage under a group 2 plan for excessive assets.
6. On August 8, 2018, Petitioner filed a hearing request to dispute the Department's decision.

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 order to be eligible for health care coverage under the Healthy Michigan plan, a client must meet the Department's income requirements. Under the Healthy Michigan Plan, a client's modified adjusted gross income (MAGI) must be at or below 133% of the Federal Poverty Level (FPL). BEM 137 (April 1, 2018), p. 5 and RFT 246 (April 1, 2014), p.1. For a household size of 5, the FPL is \$29,420.00 for 2018. 89 FR 2642 (January 18, 2018), p. 2642-2644. Thus, the MAGI limit for health care coverage for a household size of 5 is \$39,128.60 for the Healthy Michigan Plan. The Department properly determined that Petitioner's income exceeded \$ [REDACTED] per year. Petitioner's year to date income as of June 28, 2018, was \$ [REDACTED] so his expected annual income would have been approximately \$ [REDACTED] (\$ [REDACTED] x 2). Thus, the

Department properly found Petitioner and his spouse ineligible for health care coverage under the Healthy Michigan Plan.

Since the Department found Petitioner and his spouse ineligible for health care coverage under the Healthy Michigan Plan, the Department considered Petitioner's eligibility for health care coverage under a group 2 plan (coverage with a spend down). In order to be eligible for health care coverage under a group 2 plan, a client must meet the Department's asset requirements. The asset limit for coverage under a group 2 caregiver (G2C) plan is \$3,000.00. BEM 400 (May 1, 2018), p. 7. Investments held in a 401k retirement plan are countable assets. BEM 400, p. 26-27. The value that is countable is the value of the investments that are available for withdrawal minus any withdrawal penalty. BEM 400, p. 27. Here, the Department determined that Petitioner's assets exceeded the limit because the Department had a record of Petitioner having a 401k with more than \$ [REDACTED] in investments. Petitioner depleted the 401k before June 29, 2018, but he obtained a new one with a value of approximately \$ [REDACTED]. The new 401k was available to Petitioner through loans. No evidence was presented to establish that the 401k was otherwise unavailable. Assuming Petitioner would have had to pay a standard 10% early withdrawal penalty, the value of Petitioner's 401k minus the early withdrawal penalty would have been \$ [REDACTED]. Thus, the Department properly found that Petitioner's assets exceeded the asset limit.

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 act in accordance with its policies and the applicable law when it issued its June 29, 2018, Health Care Coverage Determination which terminated Petitioner's health care coverage effective July 1, 2018.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



Jeffrey Kemm
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

Carisa Drake
190 East Michigan
Battle Creek, MI
49016

Calhoun County DHHS- via electronic mail

BSC3- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI
[REDACTED]