



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: November 5, 2018
MAHS Docket No.: 18-010056
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, 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 November 1, 2018, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented herself. Petitioner did not have any additional witnesses. Assistance Payments Supervisor, Gary Leathron, appeared and represented the Department. Andria Edwards, Assistance Payments Worker, appeared as the Department's witness.

One exhibit was admitted into evidence during the hearing. A 9-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 a recipient of Healthy Michigan health care coverage from the Department.
2. Petitioner is not married and does not have any dependents.
3. In July 2018, Petitioner began new employment. Petitioner was hired to provide part-time home care services for [REDACTED]. Petitioner usually worked 20

hours per week, but Petitioner's hours vary based on Mr. [REDACTED] need for services. Petitioner receives \$[REDACTED] per hour for her services.

4. Petitioner reported an increase in income to the Department. The Department did not ask Petitioner if her income was variable or fluctuating, and Petitioner did not specifically tell the Department that it was.
5. The Department obtained Petitioner's new wage information and determined that Petitioner's monthly income from her new employment was \$[REDACTED]. The Department used a biweekly wage of \$[REDACTED] to calculate Petitioner's monthly income from her new employment.
6. The Department added Petitioner new monthly income of \$[REDACTED] to her income of \$[REDACTED] per month from the YMCA and \$[REDACTED] per month from self-employment.
7. On September 10, 2018, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that she was not eligible for health care coverage through the Department because her income exceeded the Department's limit.
8. On September 18, 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.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the individual's household income must not exceed 133% of the Federal Poverty Limit (FPL). BEM 137 (April 1, 2018), p. 1. The FPL for a household size of one in 2018 was \$12,140, so the maximum household income for a household size of one was \$16,146.20 to be eligible for health care coverage under the Healthy Michigan Plan.

Income eligibility is based on modified adjusted gross income (MAGI) for Healthy Michigan. BEM 137 (April 1, 2018), p. 1 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62.

When income varies or fluctuates, the Department should prospect income. BEM 530 (July 1, 2017), p. 3-4 and BEM 505 (October 1, 2017), p. 3-4. Prospecting income is the process of using available information to calculate the best estimate of a client's future income. *Id.* To prospect income, the Department must first determine whether a client's income varies or fluctuates. Here, Petitioner had a short-term increase in income due to an increased need for services from her employer. This caused Petitioner's income to increase temporarily. The Department did not ask Petitioner whether her income would vary or fluctuate, and the Department used Petitioner's increased income to calculate her annual income. The Department's calculation resulted in an overstated income which made Petitioner ineligible for health care coverage under the Healthy Michigan Plan. The Department's actions were not in accordance with its policies because the Department did not make a reasonable effort to accurately determine whether Petitioner's income varied or fluctuated.

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 not act in accordance with its policies and the applicable law when it issued its September 10, 2018, Health Care Coverage Determination Notice which found Petitioner ineligible for health care coverage through the Department.

IT IS ORDERED the Department's decision is REVERSED.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's eligibility for MA based on an income recalculated consistent with this decision.

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

Pam Assemany
220 Fort St.
Port Huron, MI
48060

St. Clair County DHHS- via electronic mail

BSC2- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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