



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 19, 2018
MAHS Docket No.: 18-010681
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 6, 2018, from Lansing, Michigan. Petitioner represented himself, and his accountant, [REDACTED] [REDACTED] appeared as a witness on his behalf. The Department of Health and Human Services was represented by Richkelle Curney. [REDACTED] [REDACTED] acted as a translator.

ISSUE

Did the Department of Health and Human Services (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. On [REDACTED] [REDACTED] 2018, the Department received Petitioner's Redetermination (DHS-1010). Exhibit A, pp 5-12.
2. On August 27, 2018, the Department received a copy of Petitioner's 2017 US Individual Income Tax Return Form 1040. Exhibit A, pp 14-15.
3. Petitioner claimed a tax group of 7 people on his 2017 individual tax return. Exhibit A, p 14.
4. Petitioner reported an adjusted gross income of \$ [REDACTED] on his 2017 individual tax return. Exhibit A, p 14.

5. Petitioner reported receiving wages of \$ [REDACTED] on his 2017 individual tax return. Exhibit A, p 14.
6. On August 27, 2018, the Department received a copy of Petitioner's 2017 US Income Tax Return for an S Corporation Form 1120S. Exhibit A, p 16.
7. Petitioner reported gross receipts of \$ [REDACTED] on his S Corporation tax return. Exhibit A, p 16.
8. The Department determined that Petitioner receives countable income in the gross monthly amount of \$ [REDACTED] from the S Corporation. Exhibit A, p 13.
9. On September 26, 2018, the Department notified Petitioner that he is eligible for Medical Assistance (MA) with a \$ [REDACTED] monthly deductible effective October 1, 2018. Exhibit A, p 18.
10. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the Department's determination of the level of Medical Assistance (MA) he is eligible for. Exhibit A, pp 2-3.

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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (April 1, 2017), p 2.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information to determine adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility

for premium tax credits and cost-sharing reductions through exchanges. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016), pp 3-4.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards. Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size. It is not a flat 5% disregard from the income. The 5% disregard shall be applied to the highest income threshold. The 5% disregard shall be applied only if required to make someone eligible for Medicaid.¹

The income from S-Corporations and Limited Liability Companies (LLCs) are not self-employment. Department of Health and Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2017), p 1.

Petitioner was an ongoing MA recipient when the Department initiated a routine review of his eligibility for ongoing benefits. The Department discovered that Petitioner is the owner of the business for which he claims to receive income from. This business appears to be organized as an S-Corporation based on Petitioner's income tax return.

The Department correctly determined that the income from a S-Corporation income does not fit the definition of self-employment income as defined by BEM 502. This income fits the definition of earned income when paid as wages, and unearned income when paid as dividends or interest. Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (October 1, 2018), pp 4-5. In this case, Petitioner reported receiving wages from the S-Corporation.

However, based on its finding that Petitioner is the owner of the business, the Department treated the income as if it were self-employment income by including the gross receipts of the S-Corporation as countable income. Petitioner's business reported gross receipts of \$ [REDACTED] to the IRS, and if treated as self-employment income, would be the equivalent of income in the gross monthly amount of \$ [REDACTED] less any verified expenses or the flat 25% deduction. Since it is not self-employment income but earned income, only the wages he receives is countable.

No evidence was presented on the record that Petitioner does not meet the non-financial requirements of participating in MAGI based categories of MA. Financial eligibility for these categories of MA are based on MAGI and IRS rules. The income

¹ Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, pp 14-15. This manual is available on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf

limit for a group of seven to receive HMP benefits is \$6,723.93 per month. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

This Administrative Law Judge finds that the Department failed to properly determine Petitioner's MAGI, and therefore failed to determine Petitioner's eligibility under the HMP category of MA.

Petitioner had received MA benefits in the past under the PCF-LIF category, which has an income limit of 54% of the federal poverty level, which he does not appear to be eligible for. Further, the Department's representative testified that a tax dependent in Petitioner's household received earned income that was not applied towards the group's eligibility for a MAGI based MA category.

However, since the Department did not determine Petitioner's countable income in accordance with policy, these other considerations can be examined when the Department redetermines the most beneficial category available to the members of Petitioner's household.

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 Department policy when it determined Petitioner's eligibility for Medical Assistance (MA) benefits under the most beneficial category.

DECISION AND ORDER

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 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Allow Petitioner a ten-day period to provide verification of the income received by each member of his MAGI related group.
2. Initiate a determination of Petitioner's eligibility for October 1, 2017.
3. Provide Petitioner with written notice describing the Department's revised eligibility determination.

KS/hb



Kevin Scully
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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