



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 20, 2017
MAHS Docket No.: 17-005890
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 June 22, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing with her husband [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Deanna Lee, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner and her husband's Medical Assistance (MA) case under the Healthy Michigan Plan (HMP)?

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 her husband were ongoing recipients of MA coverage under the HMP category.
2. In [REDACTED] 2017, Petitioner submitted an application for Food Assistance Program (FAP) benefits. During an [REDACTED], 2017, FAP application telephone interview, Petitioner reported that she and her husband receive \$2,000 as a monthly donation from a family member to assist with their living expenses as they have no income. (Exhibit A)

3. Petitioner confirmed: that she is ■ years old; that her husband is ■ years old; that they are not disabled; that they are not enrolled in Medicare; that they are not the parents/caretaker of any minor children; that they do not claim any dependents on a tax return and that they are not claimed as dependents on another individual's tax return. Petitioner's household size for MA purposes is two.
4. On April 20, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising that effective June 1, 2017, she and her husband will no longer be eligible for MA on the basis that their countable income exceeds the limit for the HMP. (Exhibit C)
5. The Department determined that Petitioner's household had annual income of \$24,000. (Exhibit C)
6. On May 2, 2017, Petitioner requested a hearing disputing the closure of the MA case.

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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (January 2016), p. 1.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2016), p. 1.

Petitioner and her husband who are both under age 64, not disabled, not enrolled in Medicare and not the caretaker of any minor children, are potentially eligible for MA under the HMP. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence suggests that Petitioner's household size for MAGI purposes is two, Petitioner and her husband. 133% of the annual FPL for a household with two members is \$21,599.20. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual income cannot exceed \$21,599.20, as she and her husband were current MA beneficiaries.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (January 2016), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year."

Effective January 1, 2014, when determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the remaining months of the current calendar year. The State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or family size. (See Medicaid State Plan Amendment TN No: MI-13-0110-MM3 https://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf and http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5080-108153--,00.html).

The Health Care Coverage Determination Notice (Notice) advises Petitioner that it calculated her household total countable annual income to be \$24,000 and used this amount to determine the household's eligibility for MA benefits. (Exhibit C). The Department testified that Petitioner's household has \$2,000 in monthly unearned income from a donation/contribution from a family member outside of the group, which when multiplied by 12, results in total annual income of \$24, 000, in excess of the \$21, 599.20 income limit for HMP.

At the hearing, Petitioner and her husband did not dispute that they receive \$2,000 in from a family member to assist with living expenses. Petitioner asserted that they began receiving the \$2,000 monthly in April 2017 and thus, would not receive it for the full 12 months of the calendar year as the Department determined. Petitioner argued that when

the income is calculated using the remaining months of the calendar year, the projected annual income for the household is below the \$21, 599.20 income limit.

Because the State of Michigan has elected to base eligibility on projected annual household income for the remaining months of the current calendar year, the Department should not have used a full 12 month projection in Petitioner's case, as she and her husband were current MA beneficiaries. As such, the Department has failed to establish that Petitioner's household has annual income of \$24,000 or that the group's income is in excess of the income limit for HMP purposes.

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 closed Petitioner and her husband's MA case effective June 1, 2017, due to excess income.

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. Reinstate Petitioner and her husband's MA case under the HMP category effective June 1, 2017;
2. Provide Petitioner and her husband with MA coverage from June 1, 2017, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/tlf



Zainab A. Baydoun
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) 335-6088; 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

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Petitioner

