



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
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Date Mailed: July 20, 2017
MAHS Docket No.: 17-006742 & 17-005891
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, an in-person hearing was held on June 28, 2017, from Ypsilanti, Michigan. The Petitioner was not present for the hearing. Petitioner was represented by her husband/ Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Timothy Wortz, Assistance Payment Supervisor.

Petitioner submitted a hearing request on April 24, 2017, disputing the closure of her Medical Assistance (MA) case. On April 26, 2017, Petitioner submitted a second hearing request disputing the closure of her husband's MA case. The hearings were assigned MAHS Docket Nos. 17-005891 and 17-006742, respectively and both scheduled to be heard on June 28, 2017, at 9:30 a.m. and 10:00 a.m. respectively. With Petitioner's AHR's consent, the hearings were consolidated and held together, as both requests involved the same issue.

ISSUE

Did the Department properly determine that Petitioner and her husband were ineligible for Medical Assistance (MA) benefits under the Healthy Michigan Plan (HMP) on the basis that their income exceeded the limit?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In [REDACTED] 2017 Petitioner applied for MA benefits. Petitioner and her husband were initially approved for MA under the Healthy Michigan Plan (HMP) category.
2. In connection with a New Hire Client Notice, Petitioner submitted verification of her income and her husband's income.
3. Petitioner and her husband are employed and have earnings. Petitioner and her husband also each have monthly unearned income consisting of a retirement pension from [REDACTED].
4. Petitioner's AHR confirmed: that Petitioner is [REDACTED] years old; that he is [REDACTED] years old; that they are not disabled; that they are not enrolled in Medicare; that they are the parents/caretakers of one minor child (age [REDACTED]); that they have not filed a tax return; and that they are not claimed as dependents on another individual's tax return. Petitioner's household size for MAGI Related-MA purposes is three.
5. On April 12, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective May 1, 2017, she was no longer eligible for MA under the HMP category on the basis that her countable income exceeds the limit for the HMP. (Exhibit A, p. 6-7, 28)
6. According to the April 12, 2017, Health Care Coverage Determination Notice, the Department determined that Petitioner's household had annual income of \$56,100. (Exhibit A, pp. 6-7, 28)
7. On April 17, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective May 1, 2017, her husband was no longer eligible for MA under the HMP category on the basis that the household's countable income exceeds the limit for the HMP. (Exhibit B, pp. 20-23)
8. According to the April 17, 2017, Health Care Coverage Determination Notice, the Department determined that Petitioner's household had annual income of \$47,988. (Exhibit B, pp. 20-23)
9. On April 24, 2017, Petitioner requested a hearing disputing the closure of her MA case as referenced in the April 12, 2017, Health Care Coverage Determination Notice. (See Hearing Request for MAHS Docket No. 17-005891)
10. On April 26, 2017, Petitioner requested a hearing disputing the closure of her husband's MA case as referenced in the April 17, 2017, Health Care Coverage Determination Notice. (See Hearing Request for MAHS Docket No. 17-006742)
11. Petitioner's April 24, 2017, (MAHS Docket No. 17-005891), and April 26, 2017, (MAHS Docket No. 17-006742), hearing requests were consolidated and will both be addressed below.

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, and not enrolled in Medicare 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, Petitioner's AHR testified that he and his wife have two children (ages 11 and 22) and that they have not filed a tax return. Thus, the evidence suggested that Petitioner's household size for MAGI purposes is three: Petitioner, her husband and their minor child. 42 CFR 435.603(f)(3). 133% of the annual FPL for a household with three members is \$27,158.60. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual income cannot exceed \$27,158.60, 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 April 12, 2017, Health Care Coverage Determination Notice (Notice) advises Petitioner that it calculated her household total annual income to be \$56,100 and that it used this amount to determine she had excess income and was ineligible for HMP MA benefits. The April 17, 2017, Notice advises Petitioner that it calculated her household total annual income to be \$47,988 and that it used this amount to determine her husband had excess income and was ineligible for HMP MA benefits. The Department did not explain how or why Petitioner and her husband were found to have different amounts of annual income, despite being members of the same household.

The Department testified that in calculating the annual income for the household, it considered unearned income consisting of a retirement pension that Petitioner and her husband each receive on a monthly basis from [REDACTED] (where they previously lived), as well as the earned income received from Petitioner and her husband's employment. Specifically, the Department stated that it considered unearned income from the pension in the amount of \$1,594.36 for Petitioner's husband and \$653.21 for Petitioner. Petitioner's AHR did not dispute that he and his wife receive a monthly pension in [REDACTED]. Petitioner's AHR asserted that because the money is not transferred to the United States and is not used by them here, it should not be countable for MA purposes. However, Petitioner's AHR did not establish that the money was not available, thus, it is countable for MA purposes.

With respect to earned income, the Department stated that it relied on the two paystubs provided and considered \$1,896 paid to Petitioner on March 31, 2017, and \$1,180.41 paid to Petitioner's husband on March 17, 2017. The Department could not explain how these two paystubs were used to determine the group's countable income other than to indicate that it multiplied the biweekly pay by 2.15 to get a monthly amount and then multiplied the monthly figure by 12 to get annual income. This action and explanation is

inconsistent with Department policy with respect to the calculation of MAGI and MA income, however.

At the hearing, Petitioner's AHR did not dispute that the paystubs were accurate, but testified that Petitioner's hours of employment have since decreased. He further stated that he is not working for the summer months because he is a substitute bus driver for a school district. Petitioner is advised that he is required to provide the Department with updated income information for the Department to consider and apply to the group's MA eligibility.

Although the Department attempted to explain how the annual income was calculated and which figures were relied upon, the Department did not clearly indicate what it determined Petitioner's household's correct annual income to be and whether the \$56,100 or \$47,988 was correct. There was no explanation for the discrepancy in the annual income calculated as referenced in the April 12, 2017, and April 17, 2017, Notices sent to Petitioner. As such, the Department has failed to establish that Petitioner and her husband had household income in excess of the income limit for HMP purposes.

Additionally, the Department did not establish that it conducted a thorough ex parte review to determine Petitioner and her husband's eligibility for all MA categories prior to the closure of their HMP cases effective May 1, 2017. See BAM 210 (January 2016), p. 1. It was established at the hearing that Petitioner and her husband are the parents of a minor child. There was no evidence presented that the Department considered their eligibility for all MA categories, including non-MAGI MA categories prior to closing their case under the HMP. See BEM 105.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner and her husband's MA case effective May 1, 2017.

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 cases effective May 1, 2017;
2. Provide Petitioner and her husband with MA coverage under the most beneficial category from May 1, 2017, ongoing, if eligible, 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

Via Email:

MDHHS-Washtenaw-Hearings
BSC4 Hearings
EQAD
M. Best
MAHS

Via First-Class Mail:

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]