



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: October 31, 2017  
MAHS Docket No.: 17-011053  
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 October 2, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

**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 previously an ongoing recipient of FAP benefits.
2. On February 8, 2017 the Department sent Petitioner a Notice of Case Action advising him that effective February 1, 2017 his FAP case was closed on the basis that he failed to return requested verification of self-employment payments and bank account information. (Exhibit 1)
3. The Notice of Case Action further advised Petitioner that he must submit his request for hearing to dispute the closure of his FAP case by May 9, 2017 in order for his appeal to be timely and a hearing granted. (Exhibit 1)

4. Petitioner was previously a recipient of MA benefits under the Low-Income Family (LIF) category based on his status as a Parent/Caretaker Relative (PCR), as his daughter was under 19 years old.
5. In connection with a redetermination, Petitioner's MA eligibility was reviewed. Petitioner submitted income verifications from his current employment with [REDACTED] and his former employment with [REDACTED] with his redetermination. (Exhibit A, pp. 9-15)
6. Because Petitioner's daughter turned [REDACTED], the Department determined that Petitioner was no longer eligible for LIF MA coverage.
7. On August 8, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective September 1, 2017 he was not eligible for MA under the PCR category because he is not the parent or caretaker relative of someone under age 19. (Exhibit A, pp. 18-24)
8. With respect to Petitioner's MA eligibility under the Healthy Michigan Plan (HMP) category, the Notice advised Petitioner that he was ineligible because one or more of the individual's dependents have not applied for or do not already have minimal essential coverage. (Exhibit A, pp. 18-24)
9. Petitioner is self-employed as a driver with Uber.
10. The Department asserted that Petitioner's income was in excess of the income limit for the HMP category, however, there was no evidence presented that the Department actually made an income eligibility determination.
11. Petitioner confirmed: that he is [REDACTED] years old; that he is not disabled; that he is not enrolled in Medicare; that he is not the parent/caretaker of a minor child; and that while he did not file a tax return for 2016, he will file a tax return in 2017 and that he claims his [REDACTED] year old daughter as a tax dependent. Petitioner's household size for Modified Adjusted Gross Income (MAGI)-Related MA purposes is two.
12. On August 15, 2017 Petitioner requested a hearing disputing the closure of his FAP and MA cases.
13. Petitioner's hearing request concerning the closure of his FAP case is untimely.

### **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).

### FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

A request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600 (April 2017), pp.4-6.

In the present case, Petitioner requested a hearing on August 15, 2017 to dispute the closure of his FAP case effective February 1, 2017. The evidence established that Petitioner was notified of the case closure through a Notice of Case Action dated February 8, 2017 (Exhibit 1). The Notice of Case Action advised Petitioner that his request for hearing must be received by May 9, 2017 in order to be considered timely and a hearing granted (Exhibit 1). Therefore, because Petitioner's hearing request was not timely filed within 90 days of the February 8, 2017 Notice of Case Action and because there has been no negative action taken on Petitioner's FAP case since that time, the hearing request regarding FAP is **DISMISSED** for lack of jurisdiction. Petitioner is advised that he is entitled to submit a new application for FAP benefits to have his current eligibility determined.

### MA

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 (April 2017), p. 1-4.

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 (October 2016), p. 1.

The Department testified that in connection with a redetermination, Petitioner's MA eligibility was reviewed and it was determined that he was ineligible for ongoing LIF/PCR MA coverage as he did not have a minor child. The Department stated that it was further determined that he was ineligible for MA under the HMP because his income exceeded the limit. While the Department is correct that Petitioner is no longer eligible for MA under the LIF/PCR category, the Department did not sufficiently establish that Petitioner was ineligible for MA coverage under the HMP due to excess income.

Petitioner, who is under age 64, not disabled, and not enrolled in Medicare is potentially eligible for MA under the HMP. An individual is eligible for HMP if his 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. MAGI-Related Eligibility Manual (MREM), (May 2014) § 5; BEM 211 (January 2016). In this case, Petitioner testified that while he did not file a tax return in 2016, he will file a tax return in 2017 and will claim his daughter as a tax dependent. Thus, the evidence showed that Petitioner's household size for MAGI purposes is two. 133% of the annual FPL in 2017 for a household with two members is \$21,599. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual MAGI cannot exceed \$21,599, as he is a current MA beneficiary.

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](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](http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5080-108153--,00.html)).

At the hearing, the Department could not sufficiently explain how it determined that Petitioner's projected annual household income was in excess of the income limit for his two person group size and the MAGI Eligibility Determination Summary provided indicates that Petitioner's MAGI is \$0.00. (Exhibit A, p. 17). Although Petitioner provided the Department with current paystubs from his self-employment with Uber, there was no evidence presented by the Department regarding the exact income amounts that were relied upon and what the annual income was determined to be. Additionally, the Department testified that it had applied a MAGI household size of one, as opposed to the correct group size of two. Furthermore, the Health Care Coverage Determination Notice does not indicate that Petitioner was found to be ineligible for HMP on the basis that his income exceeded the income limit, thus, the Department's testimony that Petitioner was found to have excess income for the HMP was not supported by the documentary evidence presented.

Upon review, the Department did not establish that it thoroughly determined Petitioner's eligibility for all MA categories, including HMP, prior to the closure of his MA case, as required. 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 did not act in accordance with Department policy when it closed Petitioner's MA case effective September 1, 2017.

### **DECISION AND ORDER**

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA 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's MA case effective September 1, 2017 and redetermine his MA eligibility for September 1, 2017 ongoing under all MA categories using updated income household size information;

2. Provide Petitioner with MA coverage under the most beneficial category if eligible, from September 1, 2017, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



ZB/tlf

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**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-Macomb-20-Hearings  
BSC4 Hearing Decisions  
EQAD  
M. Best  
MAHS

**Petitioner – Via First-Class Mail:**

