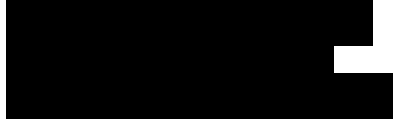




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: November 9, 2017  
MAHS Docket No.: 17-012079  
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 12, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Courtney Huemme, Eligibility Specialist.

**ISSUE**

Did the Department properly close Petitioner'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 was an ongoing recipient of MA benefits under the HMP category.
2. In connection with a redetermination/renewal Petitioner's eligibility to receive MA under the HMP was reviewed.
3. Prior to the redetermination, the Department was budgeting \$0.00 in income towards Petitioner's MA case.
4. Petitioner began employment in May 2017 and reported her earnings on her redetermination.

5. On an unverified date, the Department notified Petitioner that her MA case would be closed effective September 1, 2017. The reason for the intended closure was unverified, as the notice was not presented for review.
6. On August 28, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the closure of her MA case, specifically indicating that she is a seasonal employee, will not be employed for the winter and her year to date earnings are \$6,187.57. (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.

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, which provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 105 (January 2016), p. 1; BEM 137 (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, p. 1.

The evidence suggested that Petitioner, who is under age 64, not disabled, and not the caretaker of any minor children is potentially eligible for MA under the HMP category. 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. The evidence further suggested that Petitioner's household size for MAGI purposes is one.

133% of the annual FPL in 2017 for a household with one member is \$16,039.80. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual MAGI cannot exceed \$16,039.80, as she is a current MA beneficiary.

At the hearing, the Department testified that after processing the income that was reported on Petitioner's redetermination, it applied the updated pay information and determined that she had excess income for MA under the HMP category.

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 identify the exact income amounts considered or what income information was relied upon from Petitioner's redetermination, as the form was not presented for review. Although the Department testified that it projected Petitioner's weekly earnings from employment using a 12 month annual projection and found that she had excess income, the Department did not identify what the projected annual income was determined to be. There was no evidence presented in support of the Department's position that Petitioner's income was in excess of the income limit. Based on the testimony provided, Petitioner's seasonal employment began in May 2017 and although she did not inform the Department that she was a seasonal employee, Petitioner presented a layoff notice verifying that in November 2017, her employment will be ending for the winter.

Additionally, because as referenced above 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 her employment did not begin until May 2017. As such, the

Department failed to establish that Petitioner's income is in excess of the income limit for the HMP. Furthermore, although the Department stated that it notified Petitioner of the closure of her MA case effective September 1, 2017 by sending her a notice, the notice was not presented for review, and thus the exact reason for intended action was unknown.

The evidence established that with her hearing request, Petitioner submitted updated paystubs to the Department on August 28, 2017, verifying her actual earnings (Exhibit A, pp. 7). The Department stated that it reviewed Petitioner's MA eligibility for October 2017 ongoing using the updated paystubs and determined that she remained ineligible for HMP based on excess income. The Department notified Petitioner of the subsequent denial of her MA eligibility with a Health Care Coverage Determination Notice dated September 7, 2017 (Exhibit A, pp. 9-13). Petitioner is informed that should she dispute the information contained in the September 7, 2017 Health Care Coverage Determination Notice, she was required to submit a new hearing request to have the matter addressed, as this is considered to be a subsequent negative action taken by the Department after the current August 28, 2017 hearing request was submitted. (See BAM 600 (April 2017).

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 under the HMP effective September 1, 2017, as it did not establish that she had excess income and was ineligible for HMP MA coverage.

### **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's MA case under the HMP category effective September 1, 2017;

2. Provide Petitioner with MA coverage 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-Livingston-Hearings  
BSC4 Hearing Decisions  
EQAD  
M. Best  
MAHS

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

