



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 5, 2018
MAHS Docket No.: 17-013619
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, telephone hearing was held on December 7, 2017, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative [REDACTED] of MedAssist. The Department was represented by Carly Ostlund and Stacie Nardi.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's application for Medical Assistance (MA) benefits?

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 applied for Medical Assistance (MA).
2. Petitioner reported an adjusted gross income in the annual amount of \$23,229 on his 2016 federal income tax return. Exhibit A, pp 6-8.
3. On August 2, 2017, the Department requested that Petitioner provide verification of his current income by August 14, 2017. Exhibit A, pp 9-10.
4. Petitioner received a bi-weekly pastoral salary in the gross bi-weekly amount of \$1,026.54 from June 4, 2017, through July 29, 2017. Exhibit A, pp 11-14.
5. On October 5, 2017, the Department notified Petitioner that he was approved for Medical Assistance (MA) benefits with a \$1,317 monthly deductible. Exhibit A, pp 17-18.

6. On October 10, 2017, the Department received Petitioner's application for Medical Assistance (MA) protesting the level of Medical Assistance (MA) he was found eligible for. Exhibit A, pp 2-4.

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.

The income limit to participate in the Healthy Michigan Plan (HMP) is 133% of the federal poverty level. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

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

Household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size. 42 CFR 435.603.

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. Department of Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2016), p 2.

Department policy is consistent with federal regulations under 42 CFR § 435.603(h) that state:

Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.

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.

Petitioner applied for MA benefits and on October 5, 2017, the Department notified Petitioner that he was approved for Medical Assistance (MA) as the caretaker of a minor child with a monthly deductible of \$1,317.

Petitioner's representative argued that Petitioner was not placed in the most beneficial category of MA.

Petitioner is employed as a pastor and receives a bi-weekly salary in the gross bi-weekly amount of \$1,026.54. Petitioner also receives a pastoral FICA allowance in the bi-weekly amount of \$160.86. Petitioner receives a pastoral housing allowance of \$915.38. Petitioner receives a phone allowance in the bi-weekly amount of \$50.

A minister is defined by the IRS as an individual who is duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination. Ministers have the authority to conduct religious worship, perform sacerdotal functions, and

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

administer ordinances or sacraments according to the prescribed tenets and practices of that church or denomination. The pastoral salary is exempt from FICA and SECA taxes but not from taxable income. IRS Publication 517, pp 2-3.

Special rules for housing apply to members of the clergy. Under these rules, you don't include in your income a designated housing allowance provided to you as part of your pay. If you pay for the utilities, a pastor can exclude any allowance designated for utility cost, up to the actual cost. IRS Publication 525, p 14.

The Department did not dispute that Petitioner is a pastor, or that his housing allowance or phone allowance meet IRS methodology for exclusion from taxable income. The Department does dispute whether the FICA allowance should be included in Petitioner's MAGI.

The Department is required to determine eligibility for HMP benefits based on the group's MAGI, which is to be determined in accordance with federal tax rules for determining adjusted gross income. In this case, Petitioner provided a copy of his 2016 federal tax return along with his application material but also provided a copy of his most recent paycheck records. This administrative law judge finds that the most recent paychecks are a more accurate assessment of Petitioner's ongoing income than his tax return that shows his income from the previous year.

The three paychecks Petitioner provided to the Department as verification of his current income indicate that he receives a consistent salary in the gross bi-weekly amount of \$1,026.54. It was not disputed during the hearing that this income is countable towards Petitioner's MAGI.

This Administrative Law Judge finds that Petitioner's housing allowance and phone allowance are excluded from MAGI using IRS Publication 525 as a guide.

This Administrative Law Judge finds that Petitioner's pastoral FICA allowance is not excluded from MAGI and that IRS publication 517 is not relevant to determining whether the FICA allowance is included in Petitioner's MAGI. Whether Petitioner's income is subject to FICA or SECA taxes is not relevant to the determination of his MAGI.

Petitioner's representative failed to cite any authority that would exclude the FICA allowance from Petitioner's MAGI.

Petitioner receives a monthly MAGI of \$2,289.72, which was determined from the total of his bi-weekly pastoral salary and his bi-weekly FICA allowance. The 2017 federal poverty level for a group of three is \$1,701.76 per month. Petitioner's MAGI income exceeds 133% of this amount and the 5% income disregard does not make him eligible for HMP benefits.

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 acted in

accordance with Department policy when it determined the level of Medical Assistance (MA) benefits that Petitioner is eligible for and place him in the most beneficial category of Medical Assistance (MA).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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) 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

Kimberly Myers
234 West Baraga Ave.
Marquette, MI
49855

Marquette County DHHS- via electronic
mail

BSC1- via electronic mail

M. Best- via electronic mail

EQAD- via electronic mail

Authorized Hearing Rep.

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Petitioner

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