



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 18, 2017
MAHS Docket No.: 17-014415
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 14, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Eligibility Specialist/Hearing Coordinator.

ISSUE

Did the Department properly determine Petitioner's and Petitioner's wife's Medical Assistance (MA) eligibility?

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 Petitioner's wife were ongoing MA recipients under the Healthy Michigan Plan (HMP).
2. Petitioner's group consisted of himself, his wife, and minor child.
3. On October 16, 2017, Petitioner submitted pay statements from his income from employment (Exhibit C). Petitioner was previously only receiving disability payments, which ended in March 2017.
4. On October 19, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he and his wife were not eligible for MA benefits effective November 1, 2017, ongoing (Exhibit A).

5. On October 30, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding his and his wife's MA benefits.

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.

In this case, Petitioner and his wife were previously receiving MA benefits under the HMP program. Petitioner's household income consisted solely of Petitioner's disability payments in the amount of \$1,600 per month for the period of January through March 2017. On October 16, 2017, Petitioner submitted pay statements verifying his income from employment, as he had returned to work. As a result, the Department redetermined Petitioner's and Petitioner's wife's MA eligibility.

The Department concluded that Petitioner and his wife were not eligible for HMP because the household income exceeded the applicable income limit for their group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his/her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner was married and they claimed their son as her only dependent. The household for a tax filer, who is not claimed as at tax dependent, consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of three.

133% of the annual FPL in 2017 for a household with three members is \$27,158.60. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's and Petitioner's wife's annual income cannot exceed \$27,158.60. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department presented pay statements from Petitioner's income from employment. Petitioner's income from employment was the sole income of the household. The pay statements show that on August 9, 2017, Petitioner received payments in the gross amount of \$2,038.98; on August 23, 2017, in the amount of \$1,823.19; on September 6, 2017, in the amount of \$1,652.69; on September 20, 2017, in the amount of \$1,855.36; and on October 4, 2017, in the amount of \$1,701.13. When calculating Petitioner's income by averaging the payments received and multiplying by the expected number of paychecks in a year, their household income exceeds the income limit for a group of three. Additionally, Petitioner acknowledged he exceeds the income limit for a group of three. Therefore, the Department acted in accordance with policy when it determined Petitioner and his wife were not eligible for HMP.

Persons may qualify under more than one MA category. BEM 105 (April 2017), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2. Therefore, Petitioner's eligibility under other MA programs will be assessed.

The Department testified that because Petitioner and his wife were caretakers of a dependent child in their home, they were eligible for MA coverage under the Group 2-Caretaker (G2C) MA category. G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1.

The Department presented a G2C MA budget for Petitioner showing that he would be subject to a monthly deductible of \$1,350 (Exhibit B). The Department testified that Petitioner's wife would be subject to the same deductible amount. Although the Department testified that Petitioner was eligible for MA benefits under the G2C program, there was no evidence that Petitioner was approved for benefits under that MA program. The Notice of Health Care Coverage issued by the Department on October 19, 2017, states that Petitioner and his wife are not eligible for MA benefits. It does not state that they are eligible for MA benefits subject to a deductible. Additionally,

Petitioner's Eligibility Summary shows Petitioner was denied coverage under the G2C MA category effective December 1, 2017, ongoing (Exhibit F, p. 2). Therefore, the Department failed to establish that Petitioner and his wife had been approved MA benefits under the G2C MA category. Thus, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's and Petitioner's wife's MA benefit case, as the Department did not properly consider all MA categories.

DECISION AND ORDER

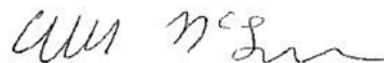
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with policy when it determined Petitioner and his wife were not eligible for MA benefits under the HMP program. The Department failed to establish that it acted in accordance with policy when it closed Petitioner's and Petitioner's wife's MA benefit case.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's and Petitioner's wife's eligibility under the MA HMP category and **REVERSED IN PART** with respect to the closure of Petitioner and Petitioner's wife's MA benefit case.

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. Redetermine Petitioner and Petitioner's wife's MA eligibility as of November 1, 2017;
2. Provide Petitioner and his wife with MA coverage they are eligible to receive for November 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.

EM/



Ellen McLemore

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

MDHHS-Macomb-36-Hearings

Petitioner



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