



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: March 1, 2018  
MAHS Docket No.: 17-016594  
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 February 20, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shana Hook, Hearing Facilitator.

**ISSUE**

Did the Department properly determine Petitioner'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. On [REDACTED], 2017, Petitioner submitted an application for MA benefits (Exhibit A).
2. Petitioner was married with one child. However, Petitioner's husband did not live in the home, as he has been incarcerated for several years.
3. Petitioner had income from employment (Exhibit B).
4. On October 3, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits subject to a monthly deductible of \$715 effective September 1, 2017, ongoing (Exhibit D).

5. On December 26, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 disputed the Department's decision to place her in an MA program with a deductible, as well as the amount of her deductible. On [REDACTED], 2017, Petitioner submitted an application for MA benefits. The Department determined Petitioner was eligible for MA benefits subject to a monthly deductible of \$715.

The Department concluded that Petitioner was not eligible for full-coverage MA benefits under the HMP program because her income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if 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 had one dependent child. Petitioner was also married but did not live with her husband, as he has been incarcerated for several years. Department policy does not set forth guidelines for group composition when the spouses are not living together. However, per Federal guidelines, married couples who live together will be included in each other's household. 42 CFR 435.603(f)(4). As Petitioner does not live with her husband, the Department properly determined her household size was two.

133% of the annual FPL in 2017 for a household with two members is \$21,599.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$21,599.20. 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 used the employment verification from Petitioner's employer to calculate her income (Exhibit B). Petitioner was paid 998.55 on September 1, 2017; \$1,575.00 on September 15, 2017; and \$1,418.55 on September 29, 2017. Petitioner was paid biweekly. When averaging the payments Petitioner received and multiplying by 26 (number of paychecks expected to be received in a year), Petitioner's income is \$35,598. Therefore, the Department properly determined Petitioner exceeded the income limit for HMP for a group size of two.

The Department determined that, because Petitioner was the parent of a dependent child in her home, she was eligible for MA coverage under the G2C program. See BEM 105 (April 2017), p. 2; BAM 220 (April 2017), pp. 17-19; BAM 210 (April 2017), p. 1; BEM 135 (October 2015), p. 1. 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.

For purposes of Group 2 MA eligibility, Petitioner, who is married but does not live with her husband, has an MA fiscal group size of one. BEM 211 (January 2016), p. 9. Because she lives in Calhoun County, her PIL is \$375. RFT 200 (December 2013); RFT 240, p. 1. Thus, if her household's net income, calculated in accordance with BEM 536 (April 2017), pp. 1-7, exceeds \$375, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income exceeds \$375.

The Department did not present a copy of the G2C related MA net income budget, which generally shows the calculation of the monthly deductible. The budget would show what the Department considered when calculating the deductible, including the client's prorated income, net income and any allowable needs deductions. In the absence of such evidence, the Department failed to establish how Petitioner's deductible was calculated and that it properly followed policy when calculating the deductible.

**DECISION AND ORDER**

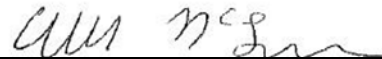
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

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. Redetermine Petitioner's MA eligibility as of September 1, 2017, ongoing;
2. Provide Petitioner with MA coverage she is entitled to receive for September 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.

EM/cg



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**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

**Via Email:**

MDHHS-Calhoun-21-Hearings  
MDHHS-Recoupment-Hearings  
M. Best  
EQAD  
BSC3- Hearing Decisions  
MAHS

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

