



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 22, 2018  
MAHS Docket No.: 18-002882  
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 May 16, 2018, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative/Guardian, [REDACTED]. Petitioner's family members, [REDACTED] and [REDACTED] were also present. The Department of Health and Human Services (Department) was represented by Adam Slate, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

**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's AHR submitted an application for MA benefits on behalf of Petitioner (Exhibit B).
2. Petitioner was automatically approved for MA benefits under the Healthy Michigan Plan (HMP) program.
3. On January 10, 2018, the Department sent Petitioner a DHS-49 Medical-Social Questionnaire and a DHS-1555 Authorization to Release Protected Health Information (Exhibit G).

4. On February 28, 2018, the Department sent Petitioner's AHR a Health Care Coverage Determination Notice informing her that Petitioner's MA benefit case was closing effective April 1, 2018, ongoing (Exhibit A).
5. On March 12, 2018, Petitioner's AHR requested a hearing.

### **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's AHR submitted an MA application on behalf of Petitioner on [REDACTED], 2017. Petitioner's AHR indicated in the application that she was Petitioner's guardian and listed her mailing address. Petitioner's application for MA benefits was automatically approved for MA benefits under the HMP program, as there was no income listed for Petitioner on the application. However, upon review, the Department discovered Petitioner does have income. The Department presented Petitioner's verification of income from [REDACTED] showing she receives a monthly long-term disability payment of \$1,510.75 (Exhibit D).

The Department concluded that Petitioner was not eligible for HMP 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 filed taxes and did not claim any dependents. Therefore, for HMP purposes, she has a household size of one. BEM 211 (January 2016), pp. 1-2.

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

According to the long-term disability verification, Petitioner's federal taxable wages is \$1,510.75 per month. That figure multiplied by 12 is \$18,129. Therefore, the Department correctly determined Petitioner's income exceeds the income limit under the HMP program.

Although Petitioner was not eligible for MA under HMP, before closing a client's MA program, the Department must conduct an ex parte review to consider the individual's eligibility for other MA categories. BAM 220 (January 2018), p. 17; BAM 210 (January 2018), p. 2. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220, p. 18. When the ex parte review shows that a recipient has indicated a disability, the Department must request additional information from the recipient needed to proceed with the disability determination, and, pending the determination, continue the recipient's MA. BAM 220, p. 19. If the recipient fails to provide the requested information after being given a reasonable opportunity to do so or if the recipient is determined following the disability determination process not be disabled for purposes of qualifying for disability-based MA categories, and eligibility under all other categories has been ruled out, the Department must send timely notice of MA case closure indicating the person is not eligible for disability-based MA. BAM 220, p. 19. If, following the disability determination process, the recipient is determined disabled for purposes of qualifying for disability-based Medicaid categories, the Department continues the recipient's MA under the disability-based MA category for which the recipient is otherwise eligible. BAM 220, p. 19. MA coverage continues until the client no longer meets the eligibility requirement for any other MA category. BAM 220, p. 19.

In this case, Petitioner's AHR alleged Petitioner is disabled. On January 10, 2018, the Department sent Petitioner a DHS-49 Medical-Social Questionnaire and a DHS-1555 Authorization to Release Protected Health Information (Exhibit G) to begin the review process of her eligibility for MA programs for those with a disability. The Department testified that neither Petitioner nor Petitioner's AHR returned the documents. As a result, the Department closed Petitioner's MA benefit case in the notice issued February 28, 2018.

A review of the documents sent January 10, 2018 shows that the Department mailed the documents to the nursing facility where Petitioner was located. The Department conceded the documents were not mailed to Petitioner's AHR/Guardian. Petitioner's AHR testified she did not receive the documents in January 2018. Petitioner's AHR testified the first time she received the documents was in March 2018. The correspondence history shows the Department reissued the DHS-49 and DHS-1555 on March 13, 2018.

An Authorized Representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110 (January 2018), p. 9. The AR assume all the responsibilities of a client. BAM 110, p. 9. An AR includes a client's legal guardians. BAM 110, p. 11. Clients/ARs have the responsibility to cooperate with the Department to determine initial and ongoing eligibility, which includes the completion of necessary forms. BAM 105 (January 2018), p. 9.

It is unreasonable to expect Petitioner's AHR/Guardian to cooperate with requests for documentation when the documents were only sent to the Petitioner. The Department conceded the documents that were required to determine Petitioner's ongoing eligibility were only sent to Petitioner at the nursing home where she resides and not Petitioner's AHR. As a result of the Department's error, Petitioner was not able to maintain her MA benefits during the Department's determination of her eligibility for other programs, as required by policy. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case for the failure to submit the required documentation.

### **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 Department policy when it determined Petitioner was not eligible for MA benefits under the HMP program. The Department did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

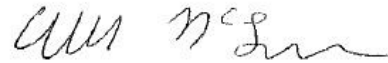
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the determination that Petitioner was not eligible for HMP and **REVERSED IN PART** with respect to the closure of Petitioner's MA benefit case.

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. Reinstate Petitioner's MA coverage under the HMP program effective April 1, 2018, ongoing;

2. Conduct an ex parte review to determine Petitioner's eligibility for disability-based MA;
3. Provide Petitioner with MA benefits she is entitled to receive from April 1, 2018, ongoing; and
4. And notify Petitioner of its 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) 763-0155; 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-Kalamazoo-Hearings  
M. Best  
EQAD  
BSC3- Hearing Decisions  
MAHS

**Authorized Hearing Rep. –  
Via First-Class Mail:**

[REDACTED]

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

[REDACTED]