



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-006095
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's June 6, 2018, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 2, 2018, from Lansing, Michigan. Petitioner, [REDACTED] and his wife, [REDACTED] appeared on behalf of Petitioner. John Brady, Eligibility Specialist, and Crystal Cusic-Spencer, Assistance Payments Supervisor, appeared on behalf of the Department.

One exhibit was admitted into evidence during the hearing. A 49-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate health care coverage for [REDACTED] and [REDACTED] effective July 1, 2018?

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 has a group size of four composed of himself, his spouse, and his two children. Petitioner applied for health care coverage and the Department found his children, [REDACTED] and [REDACTED] eligible for health care coverage.
2. In 2016, Petitioner had an adjusted gross income of \$47,893.00 (as listed on his 2016 Federal income tax return). Petitioner provided proof of this income to the Department. Exhibit A, p. 40-41.

3. On May 25, 2018, the Department issued a Health Care Coverage Determination Notice to Petitioner. The Determination notified Petitioner that [REDACTED] and [REDACTED] were no longer eligible for health care coverage as of July 1, 2018. Exhibit A, p. 4-10.
4. On May 26, 2018, [REDACTED] turned 19 years old. Exhibit A, p. 15.
5. The May 25, 2018, Determination found [REDACTED] ineligible because he was no longer under age 19 years old and “countable income exceeds income limit for your group.” Exhibit A, p. 4-10.
6. The May 25, 2018, Determination found [REDACTED] ineligible because “countable income exceeds income limit for your group.” Exhibit A, p. 4-10.
7. On [REDACTED] Petitioner requested a hearing to dispute the Department’s termination of health care coverage for [REDACTED] and [REDACTED] Exhibit A, p. 2-3.
8. On June 15, 2018, the Department requested verification of Petitioner’s income. Exhibit A, p. 48-49.
9. On June 25, 2018, Petitioner provided his 2017 Federal income tax return to the Department.

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.

Health care coverage for children is available through the Healthy Kids and the MICHild programs. In order for an individual to be eligible for health care coverage under the Healthy Kids program, the individual must be under the age of 19 and the household income cannot exceed 160% of the Federal Poverty Level (FPL). BEM 131 (October 1, 2016), p. 1-2. In order for an individual to be eligible for health care coverage under the MICHild program, the individual must be under the age of 19 and the household income cannot exceed 212% of the FPL. BEM 130 (July 1, 2016), p. 1.

Health care coverage for adults is available through various programs, including the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the household income cannot exceed 133% of the FPL. BEM 137 (April 1, 2018), p. 1.

Income eligibility is based on modified adjusted gross income (MAGI). BEM 500 (July 1, 2017), p. 3-4 and 7 CFR 435.603. MAGI is defined as adjusted gross income increased by (1) excluded foreign income, (2) tax exempt interest, and (3) the amount of social security benefits excluded from gross income. 26 USC 36B(d)(2)(B). Adjusted gross income is that which is commonly used for Federal income taxes, and it is defined as gross income minus deductions for business expenses, losses on the sale or exchange of property, retirement contributions, and others. 26 USC 62. The FPL for a household of four in 2018 was \$25,100.00. 83 FR 2642-2644 (January 18, 2018). Thus, the income limit for Healthy Kids was \$40,160.00, the income limit for MICHild was \$53,212.00, and the income limit for Healthy Michigan Plan was \$33,383.00.

Once the Department finds a child under age 19 eligible for health care coverage, the Department cannot shorten the child's 12-month eligibility period. BAM 210 (January 1, 2018), p. 10. There are limited exceptions which allow the Department to shorten the child's 12-month eligibility period such when the child turns 19 or when eligibility was granted based on incorrect or fraudulent information. BAM 210, p. 10.

Here, the Department correctly found [REDACTED] ineligible for health care coverage under the Healthy Kids and MICHild programs effective July 1, 2018, because he was going to be 19 years old by July 1, 2018 and would not meet the age requirement for those programs. However, he still could have been eligible for health care coverage under another program.

The Department must attempt to obtain information sufficient to complete a redetermination or renewal of health care coverage before it makes a determination. BAM 210 (January 1, 2018), p. 17-18. The Department must tell its client what verification is required, how to obtain it, and the due date. BAM 130 (April 1, 2017), p. 3. The Department must allow the client 10 days to provide verification requested. BAM 130, p. 8.

Here, the Department testified that it found [REDACTED] and [REDACTED] ineligible for health care coverage based on income because the income information the Department had was too old. The Department did not ask Petitioner to provide proof of his income before the Department found [REDACTED] and [REDACTED] ineligible; the Department simply decided that the income information it had was too old to use anymore. The Department did not attempt to obtain sufficient information from Petitioner before making its determination, and the department did not tell Petitioner what verification was required and when it was due. Therefore, the Department did not act in accordance with its policies.

For these reasons, I must find that the Department's June 1, 2018, Determination was issued in violation of the Department's policies and the applicable law. Therefore, it must be reversed.

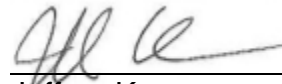
DECISION AND ORDER

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 did not act in accordance with its policies and the applicable law when it issued its May 25, 2018, Health Care Coverage Determination.

IT IS ORDERED the Department's May 25, 2018, Determination is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of [REDACTED] eligibility for health care coverage under programs other than the Healthy Kids and MIChild programs, and the Department shall initiate a review of [REDACTED] eligibility for health care coverage under the Healthy Kids and MIChild programs.

JK/nr



Jeffrey Kemm
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

DHHS

Lori Duda
30755 Montpelier Drive
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48071

Oakland 2 County DHHS- via electronic
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Petitioner

[REDACTED]
MI