



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: December 3, 2018
MAHS Docket No.: 18-009861
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 November 1, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearings Facilitator. During the hearing, a 21-page packet of documents was offered and admitted as Exhibit A, pp. 1-21.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case under the Healthy Michigan Plan (HMP) for exceeding the income limit?

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 was an ongoing recipient of MA under the HMP.
2. On August [REDACTED] 2018, Petitioner submitted to the Department a change report indicating that he began collecting unemployment benefits at \$[REDACTED] per week. Exhibit A, p. 5.
3. On September [REDACTED] 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was no longer eligible for MA, effective October 1, 2018, because his countable income exceeded the income limit for his group size of one. Exhibit A, pp. 18-21.

4. On [REDACTED] [REDACTED] [REDACTED] Petitioner submitted to the Department a request for hearing disputing the closure of his MA case.

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 was an ongoing MA recipient under the HMP program. On August 20, 2018, Petitioner submitted a change report to the Department informing the Department that he began receiving unemployment compensation benefits. The Department determined Petitioner was no longer eligible for MA benefits under the HMP program after factoring in Petitioner's new income from unemployment.

The Department concluded that Petitioner was not eligible for HMP because his income exceeded the applicable income limit for her group size. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (April 2018), p. 1. An individual is eligible for HMP if his 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 (April 2018), pp. 1-2.

133% of the annual FPL in 2018 for a household with one member is \$16,146.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,146.20. 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, 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods..., a State may elect in its State plan to base financial eligibility either on current monthly household income... or income based on projected annual household income...for the remainder of the current calendar year."

Effective January 1, 2014, when determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the remaining months of the current calendar year. The State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or family size. See:

http://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf.

The Department determined that Petitioner had a yearly income of \$[REDACTED] based on Petitioner's unemployment compensation he received along with income from employment. The Department annualized Petitioner's income over the course of an entire year. As a result, the Department determined Petitioner exceeded the income limit for a group size of one and closed her MA benefit case.

The income Petitioner was receiving was a result of a time-limited unemployment claim that was due to end on in the late fall of 2018. At the hearing, Petitioner reiterated that the unemployment compensation had a definite end date, and the Department representative acknowledged that it was improperly annualized. During the hearing, the Department representative did a quick calculation and conceded that for the purposes of determining Petitioner's eligibility for MA, Petitioner's annual income should have been calculated to be about \$[REDACTED] which is substantially below the HMP eligibility threshold.

The Department conceded that it erred when they annualized Petitioner's earned income over the entire year. Petitioner gave credible testimony that his compensation was limited and expected to end prior to the end of 2018. It was reasonably predictable that Petitioner would experience a decrease in income before the end of the year. Therefore, the Department failed to follow policy when they annualized Petitioner's earned income over the entire year. As such, the Department failed to follow policy when it closed Petitioner's MA benefit case.

DECISION AND ORDER

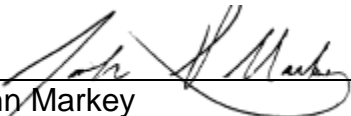
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

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 October 1, 2018, ongoing;
2. If Petitioner is eligible for MA benefits, provide Petitioner with MA coverage he is entitled to receive as of October 1, 2018, ongoing; and
3. Notify Petitioner of its decision in writing.

JM/nr



John Markey
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

Lauren Casper
27690 Van Dyke
Warren, MI
48093

Macomb 20 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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