

PA

[REDACTED]

APPELLANT

v.

MARYLAND HEALTH

BENEFIT EXCHANGE

\* BEFORE LAURIE BENNETT,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* OAH No.: MHBE [REDACTED] 01A-18-18117

\* \* \* \* \*

**DECISION**

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**STATEMENT OF THE CASE**

On May 5, 2018, the Appellant applied for Medical Assistance Program (MA) benefits through the Maryland Health Benefit Exchange (MHBE).<sup>1</sup> On May 5, 2018, the MHBE denied the application on the basis that her income is too high.<sup>2</sup> Md. Code Ann., Ins. §§ 31-101 through 31-119 (2017). On or about June 6, 2018, the Appellant filed an appeal. 45 Code of Federal Regulations (C.F.R.) § 155.505 (2017).

The OAH scheduled a hearing for July 5, 2018 at 9:00 a.m. The Appellant failed to appear for the hearing. On July 11, 2018, she notified the OAH that she had arrived at the hearing at 1:00 p.m. because she wrote down the wrong start time. The OAH granted a postponement.

<sup>1</sup> Medical Assistance is also known as Medicaid. Because Maryland law refers to the "Maryland Medical Assistance Program," I will use that term. See Md. Code Ann., Ins. § 31-108(b)(10) (2017); Md. Code Ann., Health Gen. § 15-103 (Supp. 2017).

<sup>2</sup> On the appeal form, the Appellant checked that her application was also wrongly denied for "Medicaid for Children." That was not the subject of the hearing as the MHBE found the Appellant's daughter eligible for the Maryland Children's Health Program. MHBE Ex 1.

On August 2, 2018, I held the rescheduled hearing at [REDACTED] Road, [REDACTED] Maryland. The Appellant represented herself. [REDACTED] Appeals and Grievances Coordinator, represented the MHBE.

Procedure in this case is governed by the Administrative Procedure Act, the MHBE's procedures for Fair Hearings of Individual Exchange Eligibility Determinations, the Rules of Procedure of the Office of Administrative Hearings, and the federal regulations for Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2017); Code of Maryland Regulations (COMAR) 14.35.01.01; COMAR 14.35.11; COMAR 28.02.01; and 45 C.F.R. §§ 155.500 through 155.555 (2017).

### ISSUE

Did the MHBE properly deny the Appellant's application for MA benefits?

### SUMMARY OF THE EVIDENCE

#### Exhibits

I admitted the following documents as MHBE Exhibit 1:

- Agency Summary for Appeal Hearing, 6/22/2018 (pp. 1-2)
- Application, filed 5/5/2018 (pp. 3-9)
- Health Coverage Renewal Decision Notice, 5/5/2018; Blank Request for Hearing form; Blank Authorized Representative form (pp. 10-18)
- Application, filed 5/25/2018 (pp. 19-26)
- Notice regarding "Result of Your Application Changes," 5/25/2018; Blank Request for Hearing form; Blank Authorized Representative form; Maryland Health Connection cover sheet, not dated; Blank sheet (pp. 27-38)
- Notice regarding "Special Enrollment Qualification," 5/25/2018 (pp. 39-42)

- 42 C.F.R. § 435.911 (p. 43)
- 42 C.F.R. § 435.119 (p. 44)
- COMAR 10.09.24.03 (pp. 45-47)
- 42 C.F.R. § 435.603 (pp. 48-51)
- COMAR 10.09.24.07 (pp. 52-57)
- Information sheet, “Medicaid Coverage for Marylanders, not dated (p. 58)

The Appellant did not offer any exhibits into evidence.

### Testimony



Appeals and Grievances Coordinator, testified for the MHBE.

The Appellant testified on her own behalf.

### FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. On or about May 5, 2018, the Appellant applied for MA for a household of two persons (herself and a child) through the MHBE.
2. The Appellant earns \$24,000.00 per year from employment.

### DISCUSSION

In accordance with the Patient Protection and Affordable Care Act,<sup>3</sup> Maryland created the MHBE as an independent unit of State government. Md. Code Ann., Ins. § 31-102 (2017). The MHBE’s purpose is, in part, to assist individuals in accessing public programs, including MA. Md. Code Ann., Ins. § 31-102(c)(4) (2017). The MHBE is authorized to make determinations regarding an individual’s income-based eligibility for MA. Md. Code Ann., Ins. § 31-108(b)(10)(i) (2017).

<sup>3</sup> The Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119, *amended by* the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029, *amended by* the Three Percent Withholding Repeal and Job Creation Act, Pub. L. No. 112-56, 125 Stat. 771 (2011) (codified as amended in scattered sections of Titles 26 and 42 of the United States Code Annotated.

The MHBE determined that the Appellant did not qualify for MA based on her income. The Appellant testified that she cannot afford insurance offered by her employer so she needs MA. She said that the MHBE should take into account that she has to pay for rent and other normal expenses.

MA benefits may not be awarded to any applicant with a household size of two persons whose household modified gross income is in excess of 133% of the federal poverty level. 42 United States Code Annotated (U.S.C.A.) § 1396a(e)(14)(I)(i) (2012 & Supp. 2018); 42 C.F.R. §§ 435.218(b)(1)(iv), and 435.603(d)(1) and (e) (2018); 45 C.F.R. § 155.305(c) (2016); *see also* COMAR 10.09.24.07. Under 42 C.F.R. § 435.603(e), modified adjusted gross income has the meaning in 26 U.S.C. § 36B(d)(2)(B) (Supp. 2018), which is adjusted gross income increased by—

- (i) any amount excluded from gross income under section 911,
- (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and
- (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d)) which is not included in gross income under section 86 for the taxable year.<sup>4</sup>

Section 911 relates to citizens living abroad, which is not the Appellant's situation. The other increases do not apply to the Appellant either. Nothing in the State or federal statute or regulations permits the MHBE to deduct everyday expenses, like rent, insurance, transportation, and food, from an income calculation, or to use an applicant's net, or take home, pay instead. Thus, the Appellant's entire gross income is counted.

The federal poverty level for a household of two, at the time of the Appellant's application, was \$16,460.00. *See* Notices: Annual Update of the Department of Health and Human Services Poverty Guidelines, 83 Fed. Reg. No. 15 at 2642 (Jan. 18, 2018).

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<sup>4</sup> 42 C.F.R. § 435.603(e) carves out some exceptions that are inapplicable here.

The Appellant reported that her income is \$24,000.00 per year. Her income is too high for MA eligibility.

### CONCLUSION OF LAW

I conclude as a matter of law that the MHBE properly denied the Appellant's application for MA benefits. 42 U.S.C.A. § 1396a(e)(14)(I)(i) (2012 & Supp. 2018); 42 C.F.R. §§ 435.119, 435.218(b)(iv), and 435.603(d)(1) and (e) (2017); 45 C.F.R. § 155.305(c) (2017); *see also* COMAR 10.09.24.07.

### ORDER

I **ORDER** that the decision of the Maryland Health Benefit Exchange to deny the Appellant's application for Medical Assistance benefits is **AFFIRMED**.

August 22, 2018  
Date Decision Mailed

Signature Appears on Original

Laurie Bennett  
Administrative Law Judge

LB/emcl  
#175197

### REVIEW RIGHTS

This is the final decision of the Maryland Health Benefit Exchange. A party aggrieved by this final decision may, within thirty (30) days of the date of this decision, file a petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county in which any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222 (Supp. 2017); Md. Rules 7-201 through 7-210. A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325.

If you do not wish to file a petition for judicial review with the circuit court, you may choose to file an appeal request with the United States Department of Health and Human Services within thirty (30) days of the date of this decision, at Health Insurance Marketplace, 465 Industrial Boulevard, London, KY 40750-0061. 45 C.F.R. § 155.520(c) (2017). The Office of Administrative Hearings is not a party to any review process.

**Copies Mailed To:**

[REDACTED]

[REDACTED]

[REDACTED]