

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-008731
Issue No.: 2001, 3000
Case No.: [REDACTED]
Hearing Date: September 04, 2014
County: Cass County DHS

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 04, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself and her husband [REDACTED]. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and AP Supervisor [REDACTED]. During this hearing Claimant stated there is no Food Assistance Program issue to be resolved. That portion of this hearing was incorrectly added by Michigan Administrative Hearing System intake and is dismissed.

ISSUE

Did the Department properly end Medical Assistance (MA) for members of Claimant's MA benefit group beginning August 1, 2014?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of Medical Assistance and Food Assistance Program benefits. Claimant's benefit group consisted of herself, her three children, and [REDACTED], the father of the three children.
2. On April 15, 2014, Claimant was sent a Redetermination (DHS-1010) for Medical Assistance. Claimant's Medical Assistance was due for redetermination by May 31, 2014.
3. On June 30, 2014, Claimant notified the Department that [REDACTED] was working again.

4. On July 16, 2014, Claimant was sent a Notice of Case Action (DHS-1605) stating her Food Assistance Program benefits would end.
5. On July 17, 2014, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated Medical Assistance for Claimant and her three children would end on August 1, 2014. The notice stated their coverage was ending because none of them was under 21, pregnant, or a caretaker of a minor child in the home nor over 65, blind, or disabled. The notice also stated Claimant's coverage was ending due to excess income.
6. On July 28, 2014, Claimant submitted a hearing request about Medical Assistance only.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In the Hearing Summary (DHS-3050) and during this hearing, the Department asserted that the medical coverage ended because the Redetermination (DHS-1010) was not returned. Claimant testified that she did not receive the Redetermination (DHS-1010). Claimant also raised a question about the impact of Scott's income on Medical Assistance coverage for the other 4 members of the household.

The first issue which needs to be resolved is the Redetermination (DHS-1010) because of the chronological sequence of events. The Redetermination (DHS-1010) was mailed to the same address Claimant verified as a valid mailing address at this hearing. It stated it was time to review Medical Assistance eligibility and listed all five members of the family. It is noted that at the time the Redetermination (DHS-1010) was issued, Claimant and Scott were not legally married. They have become married since that time.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

No evidence was presented of problems with the receipt of other mail, including correspondence from the Department. It is also noted that testimony during the hearing indicates April was a hectic month for the family because Scott had to stop working due to an injury and they applied for Food Assistance Program benefits. It is also noted that significant changes to Medical Assistance programs in Michigan occurred on April 1, 2014. During the past two month, this Administrative Law Judge has presided over numerous hearing that involved disruptions to the normal flow of paperwork and processing of Medical Assistance cases and applications caused by the changes that went into effect April 1, 2014.

Exhibit 7, page 47, contains case comments made by the DHS case worker during April. An entry of April 10, 2014 specifically states "Received app in local office on 4/4 . . . Added programs but already overdue FAP Updated cash and MA request." Based on the fact that the case worker was processing a Medical Assistance eligibility determination at least 5 days before the date of the Redetermination (DHS-1010), this Administrative Law Judge is not persuaded that return of the Redetermination (DHS-1010) is a valid closure reason.

The next issue is the excess income reason actually provided in the July 17, 2014 Health Care Coverage Determination Notice (DHS-1606). It is reiterated that this notice did not address [REDACTED] Medical Assistance. It is also noted that all the Department documents in this record still indicates Claimant and Scott were not legally married. Referring again to the case comments on Page 47, they indicate that income information was received/verified for Claimant, independent of [REDACTED] work status. Direct excerpts from the Modified Adjusted Gross Income (MAGI) Related Eligibility Manual are provided below.

CHAPTER 5-HOUSEHOLD COMPOSITION

5.1 FAMILY SIZE

The size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household. Parents and stepparents are treated the same. Individual family members may be eligible under different categories.

5.2 TAX FILERS AND NON- TAX FILERS

a. The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse
- Tax dependents

b. The household for a non- tax filer who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse
- The individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student.

If the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student).

CHAPTER 7 INCOME

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards.

Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges.

7.1 COUNTABLE INCOME SOURCES

The following are common sources of income which are countable in a MAGI related determination:

- Wages/Salary
- Self-Employment
- RSDI
- Pensions
- Unemployment Benefits
- Spousal Support

7.2 NON-COUNTABLE INCOME SOURCES

The following are common sources of income which are not countable in a MAGI related determination:

- Child Support
- Workers Compensation
- American Indian/Native American payments

Veteran's Benefits such as:

- Aid and attendance
- Augmented compensation
- Educational benefits
- Housebound allowance
- Unusual medical expenses
- Supplemental Security Income
- Adoption Subsidy
- Disaster Relief Payments

5% Disregard

- The 5% disregard is the amount equal to 5% of the Federal Poverty Level for the applicable family size.
- It is not a flat 5% disregard from the income.
- The 5% disregard shall be applied to the highest income threshold.

The 5% disregard shall be applied only if required to make someone eligible for Medicaid.

Reasonable Compatibility

Attested income will be found not reasonably compatible with income from trusted sources if the difference exceeds 10%.

If the group's attested income is below the income threshold for the program being tested and trusted data source also validates income below the income threshold, the no reasonable compatibility test is performed. Applicant is eligible.

If the group's attested income is above the income threshold for the program being tested but trusted data source finds income below the income threshold, then no reasonable compatibility test is performed, Applicant is not eligible based on attested income.

If the group's attested income is above the income threshold for the program being tested and the trusted data source validates income above the income threshold, then no reasonable compatibility test is performed. Applicant is not eligible based on attested income.

If the group's attested income is below the income threshold for the program being tested but the trusted data source indicates income above the income threshold, then reasonable compatibility test is performed:

If income is reasonable compatible, then the applicant is eligible

If the income is not reasonable compatible, then the program pends and the individual is required to provide proof of attested income.

CHAPTER 12 VERIFICATIONS

12.1 SELF-ATTESTATION

Self-attestation is acceptable for most eligibility factors. Citizenship, social security numbers and lawful presence require documentation.

Sources available to the state, i.e., SSA, SAVE, DCH vital records must be utilized first before requesting documentation from the individual.

12.2 DOCUMENTATION

When electronic verification is not successful, documentation may not be requested of an individual for whom documentation does not exist or is not reasonably available at the time of an application or renewal. Such circumstances include, but are not limited to, individuals who are homeless and victims of domestic violence or natural disasters.

12.3 PREGNANCY

Self-attestation of pregnancy is acceptable unless the information is not reasonably compatible with other information in SOM files.

CHAPTER 13 HEARINGS ADMISSION OF EVIDENCE

Federal tax information (FTI) is safeguarded from disclosure by federal Internal Revenue Service rules. An affidavit by the eligibility specialist, attesting to the MAGI database

determination of ineligibility, is sufficient to establish that ineligibility was based on the individual's MAGI. The individual's specific federal tax information (FTI) need not be presented as evidence during the hearing. FTI is not required at hearings for Medicaid ineligibility based on reasons other than MAGI.

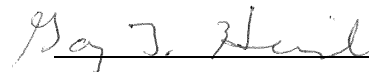
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it ended Medical Assistance (MA) for members of Claimant's MA benefit group beginning August 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision **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. Reinstate Medical Assistance for all 5 members of Claimant's benefit group and determine their Medical Assistance eligibility from August 1, 2014 ongoing.
2. Issue a current Health Care Coverage Determination Notice (DHS-1606) showing the Medical Assistance eligibility for all 5 members.



Gary Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/16/2014**

Date Mailed: **9/16/2014**

GFH / hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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 48909-07322

CC:

