

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010473
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: October 30, 2014
County: GRAND TRAVERSE

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 October 30, 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 AP Supervisor [REDACTED].

ISSUE

Did the Department properly deny Claimant's April 9, 2014, Medical Assistance application?

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 April 9, 2014, Claimant submitted an application for Medical Assistance benefits for herself and her husband. A Health Care Coverage Supplemental Questionnaire (DHS-1004) was sent to Claimant.
2. On April 29, 2014, the Health Care Coverage Supplemental Questionnaire (DHS-1004) was returned. The Begley's 2013 tax return was submitted as verification of their income. Exhibit B pages 1-79.
3. On May 22, 2014, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated they were not eligible for Medical Assistance due to excess income.
4. On August 18, 2014, Claimant submitted a hearing request.

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.

The [REDACTED] tax returns were prepared by an accounting firm and include 1040 schedules A, B, C, and E. The [REDACTED] reported: wages; a business loss from a business (Mosaic Design) 1040 Schedule C pages B22-24, and a loss due to real estate rental, 1040 Schedule E pages B18-21. [REDACTED] testified that one of their businesses is a sole proprietorship and one is an LLC which owns and rents real property.

Bridges Eligibility Manual (BEM) 501 Income from Employment (2014) at page 6, under wages for all types of assistance states: Wages are the pay an employee receives from another individual organization or S-Corp/LLC. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance.

BEM 501 at pages 5 & 6 under S Corporations (S CORP)/Limited Liability Company (LLC) for Medicaid states "See BEM 503, Unearned Income."

BEM 502 Income from Self-Employment (2014) at page 1 under self-employment states:

All TOA

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board.

S-Corporations and Limited Liability Companies (LLCs) are not self-employment.

BEM 503 Unearned Income (2014) at page 29 under S Corporations (S CORP)/Limited Liability Company (LLC) for Medicaid say "Money received from an S-Corp or LLC, is unearned income."

BEM 504 Income from Rental/Room and Board (2014) provides a definition of rental income, allowable rental expenses and required verifications.

The Michigan Department of Community Health Modified Adjusted Gross Income (MAGI) Related Eligibility Manual Chapter 7 states:

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

In this case the Health Care Coverage Determination Notice (DHS-1606) stated the not eligible determination was based on an annual income of \$ [REDACTED] for Claimant and \$ [REDACTED] annual income for [REDACTED]. In the Hearing Summary (DHS-3050) the Department referred to a gross rental income of \$ [REDACTED] and cited IRS guidelines as the basis for not deducting rental losses when calculating Modified Adjusted Gross Income for ACA determinations.

Claimant testified that the rental income is to an LLC. BEM 503 (cited above) states that money received from an LLC is considered unearned income for purposes of Medical Assistance eligibility. The evidence in this record does not make it clear if the from the rental is being paid into the LLC or directly to Claimant. If it is going to the LLC then money's received from the LLC need to be verified and used. If the money is going directly to Claimant, there appears to be a conflict between BEM 504 and the IRS guidelines cited by the Department.

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

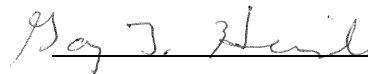
satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's April 9, 2014, Medical Assistance application.

DECISION AND ORDER

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. Reinstate Claimant's April 9, 2014, Medical Assistance application and reprocess it in accordance with Michigan Department of Human Services' policy.



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

Date Signed: **12/16/2014**

Date Mailed: **12/16/2014**

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 48909-8139

cc:

