

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

IN THE MATTER OF:



Reg. No.: 15-007628
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: June 24, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 24, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Claimant's Medical Assistance (MA) application due to Claimant's failure to return 30 days of income verification.

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 [REDACTED], Claimant applied for Medical Assistance (MA) benefits.
2. On [REDACTED], MDHHS mailed Claimant a Verification Checklist (VCL) (Exhibits 1-2) requesting verification of 30 days of Claimant's income.
3. The VCL due date was [REDACTED].
4. As of [REDACTED], Claimant failed to return 30 days of income verification to MDHHS.

5. On [REDACTED], MDHHS mailed Claimant a Health Care Coverage Determination Notice (Exhibits 1-2) informing Claimant that her MA application was denied due to a failure to verify income.
6. On [REDACTED] Claimant requested a hearing to dispute the denial of her request for MA benefits.

CONCLUSIONS OF LAW

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

HMP is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGI). Unlike MDHHS policy, HMP policy is more lenient on requiring verifications.

Claimant requested a hearing to dispute a denial of MA benefits. MDHHS presented a Health Care Coverage Determination Notice (Exhibits 1-2) dated [REDACTED] which stated that Claimant's MA eligibility was denied due to Claimant's failure to verify income. MDHHS also presented a VCL (Exhibits 3-4) which requested that Claimant provide 30 days of income verification.

Claimant initially testified that she submitted various check stubs to MDHHS when she mailed her application. Claimant then amended her testimony by stating that she actually mailed check stubs to MDHHS on [REDACTED]. MDHHS responded that their database did not reflect any income verification submissions from Claimant from the time before Claimant's application was denied. For purposes of this decision, it will be found that Claimant submitted check stubs to MDHHS on [REDACTED].

Claimant testified that she was paid weekly. Claimant brought to the hearing the check stubs that she claims to have submitted to MDHHS. Claimant presented stubs for the dates of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

For non-child support income, MDHHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (July 2014), p. 4. No series of check stub dates within Claimant's submission could verify a 30 day period of income. It is found that Claimant failed to verify a 30 day period of income. Generally, a failure to verify information justifies denial of an application (see BAM 220). Before the denial of Claimant's application can be affirmed, it must be determined if MDHHS was justified in requesting verification of Claimant's income.

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. BEM 500 (April 2015), p. 3. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information. *Id.*

MDHHS has a data exchange with the Internal Revenue Service (IRS) for wage income. BAM 800 (January 2015), p. 3. MDHHS is to use available electronic methods is to verify income. *Id.*, p. 12.

MDHHS did not present evidence that they looked to verify Claimant's income through their IRS data exchange. Claimant testified that she was a substitute teacher. Substitute teaching income is of such a nature that it is likely reported to the IRS; thus, Claimant's income information can likely be accessed by MDHHS. MDHHS did not provide evidence of effort made to verify Claimant's income information with their IRS data exchange. The failure to attempt to electronically verify Claimant's income (or at least present sufficient evidence of their attempt) is reversible error. This conclusion is also supported by MAGI policy and federal law.

MAGI policy discusses reasonable compatibility between a client's reported income and income verified from an electronic source. MAGI (May 28, 2014), p. 15. MAGI policy essentially allows MDHHS to request income from clients only when a client's reported income supports MAGI eligibility but an electronic income source does not support MAGI eligibility.

This conclusion is further supported by federal statute which states that electronic income information is to be requested and that state agencies are only to seek verification if electronic information is unhelpful (see 42 CFR 435.948 9(a)). CMCS further supports this procedure by stating that individuals must not be required to provide additional information or documentation unless information cannot be obtained electronically or the information obtained electronically is not reasonably compatible with self-attested information. (Center for Medicaid & CHIP Services, Informational Bulletin dated [REDACTED]).

Based on the presented evidence, MDHHS failed to justify requesting income information from Claimant. Accordingly, the denial of Claimant's HMP eligibility will be reversed. It should be noted that this decision does not equate to a finding that Claimant

is eligible for HMP benefits. This decision only finds that MDHHS must first attempt to establish Claimant's income eligibility for HMP through their IRS data exchange before requesting income verification from Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Claimant's MA application. It is ordered that MDHHS perform the following actions:

- (1) reinstate Claimant's MA application dated [REDACTED]; and
- (2) process Claimant's application subject to the finding that MDHHS is to first attempt to verify Claimant's income through their electronic data exchanges.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/26/2015**

Date Mailed: **6/26/2015**

CG / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

A large black rectangular redaction box covers the names and contact information of the individuals listed in the 'cc:' field.