

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

IN THE MATTER OF:



Reg. No.: 15-006495
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: June 04, 2015
County: SAGINAW

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 4, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance beginning April 1, 2015?

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 benefits.
2. On January 22, 2015, Claimant was sent a Wage Match Client Notice (DHS-4638). The notice stated Claimant had received income from DHS Restaurant Services, INC.
3. On March 18, 2015, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated his Medical Assistance would close as of April 1, 2015 for failing to provide verification of his income.
4. On March 30, 2015, Claimant submitted a hearing request.

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.

During this hearing Claimant testified that DHS Restaurant Services, INC. is his S Corporation and he owns 100% of the corporation's stock. Claimant also testified that he keeps giving the Department statements from his accountant showing the payments made to him by the corporation and his Medical Assistance keeps getting closed.

Bridges Eligibility Manual (BEM) 501 Income From Employment (2014) at page 4 states:

S CORPORATION (S CORP)/LIMITED LIABILITY COMPANY (LLC)

FIP, RCA, SDA, CDC, and FAP

Bridges counts the income a client receives from an S-Corp or LLC as wages, even if the client is the owner; see **WAGES**.

Medicaid

See BEM 503, **Unearned Income**.

Bridges Eligibility Manual (BEM) 503 Income, Unearned (2015) at page 29 states:

S-CORPORATION (S-CORP) AND LIMITED LIABILITY COMPANY (LLC)

Medicaid Only

Money received from an S-Corp or LLC, is unearned income.

The Modified Adjusted Gross Income (MAGI) Related Eligibility Manual 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

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

Review of these policies leads to the conclusion that Claimant has \$ [REDACTED] countable income for determining his Medical Assistance eligibility. Closing Claimant's Medical Assistance for not verifying non-countable income does not seem to be in concert with the intent of the current statutory scheme of expanding medical assistance. Fortunately, my decision in this action does not require going beyond a determination that the

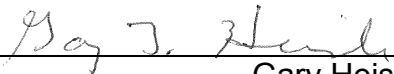
Department has not provided enough evidence to show this closure was a correct action in accordance with law and policy. The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Medical Assistance beginning April 1, 2015.

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 Claimant's Medical Assistance coverage.
2. Process Claimant's Medical Assistance in accordance with the applicable Department policy, whatever that might be.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

GFH / 

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:

