

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

**IN THE MATTER OF:**

██████████  
██████████████████  
██████████████████

Reg. No.: 15-007204  
Issue No.: 2001  
Case No.: ██████████  
Hearing Date: June 10, 2015  
County: WAYNE-DISTRICT 19  
(INKSTER)

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

**ISSUE**

Did the Department properly close/deny the Claimant Medical Assistance for HMP?

**FINDINGS OF FACT**

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

1. The Claimant completed a redetermination dated February 10, 2015 due March 2, 2015. On the redetermination the Claimant reported that he worked 72 to 40 hours "at best", and received \$1,010.05 before deductions and began employment January 22, 2015 and would end employment March 2015. The redetermination also advised the Department that the Claimant worked project-to-project and no more than 4 to 6 weeks per project. Rate of pay varied from \$12.35 to \$13.85. Exhibit 4.

2. The Department issued a Health Care Coverage Determination Notice on April 20, 2015 finding the Claimant was not eligible for Healthy Michigan Plan (HMP) due to his annual income it determined to be \$20,328 exceeded the annual income limit for one person of \$15,654. The Department found the Claimant's annual income to be \$20,328 which exceeded the HMP income limit. Exhibit 1.
3. The Claimant provided pay stubs for March 27, 2015 (\$784.28); April 10, 2015 (\$785.10); March 13, 2015 (\$1,066.45); and April 24, 2015 (\$871.88). The Claimant is paid bi-weekly. Exhibit 2.
4. The Department budgeted \$1,569.79 as monthly income when computing the Claimant's HMP budget. Exhibit 3. Another document provided by the Department, the MAGI Eligibility Determination, showed monthly income used to determine eligibility was \$1,694. This discrepancy was not explained. Exhibit 6.
5. The Claimant provided a letter from his employer which confirmed that he works project-to-project currently averaging 35 hours weekly at a rate of pay \$13.95. The employer estimated that the project would end in late July or early August 2015 and that Claimant was not expected to be working for the remainder of 2015. Claimant Exhibit A.
6. The Claimant requested a hearing on April 30, 2015 protesting the Departments action denying/closing HMP.

### **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.

In this case, The Department closed the Claimant's HMP medical assistance based upon its determination that the Claimant's income exceeded the annual income limit for HMP. The Department closed the HMP case effective June 1, 2015 after a redetermination was completed by the Claimant and he reported details about his employment. Claimant disputed the Department's closure of his MA case. The April

20, 2015, Health Care Coverage Determination Notice notified Claimant that the application was denied because he was not under 21, pregnant, the caretaker of a dependent child, over 65, blind or disabled and his income exceeded the income limits for his household size of one.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2014), p. 1; Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

At the hearing, the Department explained that Claimant had been receiving MA under the HMP plan. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

The Claimant completed a redetermination dated February 10, 2015, due March 2, 2015. On the redetermination the Claimant reported that he worked 72 to 40 hours at best, and received \$1,010.05 before deductions and began employment January 22, 2015 and would end employment March 2015. The Claimant credibly testified that he was attempting to advise the Department that at the time he filled out the redetermination he anticipated that he would not have continuing employment after March 2015. The redetermination also advised the Department that the Claimant worked project-to-project and no more than 4 to 6 weeks per project. Rate of pay varied from \$12.35 to \$13.85. Exhibit 4.

The Claimant provided a letter from his employer dated May 21, 2015 which confirmed that he works project-to-project currently averaging 35 hours weekly at a rate of pay \$13.95. The employer estimated that the project would end in late July or early August 2015 and that Claimant was not expected to be working for the remainder of 2015. This letter was never provided to the Department because the Department did not seek any verification as to the ongoing status of the Claimant's job or end date from the Claimant or from the employer. The Claimant clearly advised the Department that his employment would end in March 2015 on the redetermination form and that his hours fluctuated. Claimant Exhibit A.

The Department issued a Health Care Coverage Determination Notice on April 20, 2015 finding that the Claimant's annual income was \$20,328 and exceeded the HMP annual

income limit for one person of \$15,654. Exhibit 1. During the hearing the Department provided various pay stubs and indicated in testimony that the Department used 3 pay stubs to determine annual income which included check dated March 27, 2015 for \$784.28; April 10, 2015 for \$795.10 and one dated February 13, 2015 for \$941.80. This pay stub was not in the file. Given that the redetermination month was for February 2015 it was unexplained why the Department used checks to determine monthly income for these pay stubs for February, March and April, 2015. Exhibit 5. The Department sent Exhibit 5 after the hearing and it did not confirm the April 10, 2015 pay amount.

The Department explained that Claimant's increased earnings due to his employment made him income ineligible for continued HMP coverage. An individual is eligible for HMP if his household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Claimant was a tax filer and had no spouse or dependents. Therefore, for MAGI purposes, he has a household size of one. Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 5.2, *available at* [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf). 133% of the annual FPL in 2015 for a household with one member is \$15,654. <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. If an individual is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MAGI Related Eligibility Manual, § 7.2. Therefore, Claimant is income-eligible for HMP if his annual income does not exceed \$15,654, or, with the 5% disregard, if his annual income does not exceed \$16,436.80. The Department closed the Claimant's case because the income it calculated for the Claimant was \$20,328.

At the hearing, Claimant credibly testified that his pay during the period examined by the Department was fluctuating and explained he was working on a project-by-project basis during the period at issue and that his job was not expected to continue as confirmed by his employer's letter as well as his redetermination. Claimant Exhibit A. In determining an individual's eligibility for MAGI-related MA (which includes HMP), 42 CFR 435.603(h)(2) provides that "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year." The regulations further provide that, in determining current monthly or projected annual household income, the Department may adopt a reasonable method "to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income," with future increases or decreases in income verified in accordance with policy. 42 CFR 435.603(h)(3).

Department policy provides that MA eligibility is determined on a calendar month basis. BEM 105 (January 2014), p. 2. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. BEM 105, p. 2. **When determining eligibility for a future month, the Department should assume circumstances as of the processing date will continue unchanged unless it has information that indicates otherwise.** BEM 105 (October 2014), p. 2. (Emphasis supplied).

In this case the Department never sought verification of the redetermination information regarding the Claimant's employment change (anticipated ending) of employment which was information that indicated that the employment would not continue unchanged. It was unclear from the record how the Department determined the monthly income for Claimant. The information provided as to the monthly amount the Department used appeared to conflict and no pay stub for April 2015 was provided with the hearing packet so the amount could be verified. Exhibit 5 and 6.

Under these circumstances, it is determined that the Department did not meet its burden of proof to demonstrate that its income determination and closure of the Claimant's HMP case was correct.

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 determined the Claimant's annual income and closed the Claimant's HMP case.

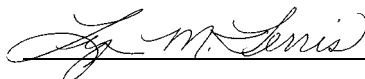
### **DECISION AND ORDER**

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. The Department shall reinstate the Claimant's HMP case as of June 1, 2015 and re-determine the Claimant's income and eligibility for Medical Assistance and the HMP program in accordance with Department policy and this Decision.

2. The Department shall provide notification in writing to the Claimant regarding the Department's determination of medical assistance eligibility for HMP.



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **7/10/2015**

Date Mailed: **7/10/2015**

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**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:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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