

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007753
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 16, 2015
County: Iosco

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 16, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his wife [REDACTED]. Participants on behalf of the Department included [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Medical Assistance (MA) benefits?

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 was an ongoing Medical Assistance (MA) recipient under the Health Michigan Plan (HMP) as a group of two.
2. On April 29, 2015, the Department received the Claimant's completed Redetermination (DHS-1010) form.
3. The Claimant received monthly earned income from employment for April of 2015, in the gross monthly amount of \$ [REDACTED].
4. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
5. The Claimant received per diem payments from his employer in April of 2015, in the gross monthly amount of \$ [REDACTED].

6. On May 8, 2015, the Department notified the Claimant that it would close his Healthy Michigan Plan (HMP) benefits as of June 1, 2015, due to his income.
7. On May 18, 2015, the Department received the Claimant's request for a hearing protesting the closure of his Healthy Michigan Plan (HMP) benefits.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

The Department excludes that portion of income received from another individual, an agency or an organization that covers past, current or future expenses under certain circumstances. BAM 500, p 9.

The income limit to participate in HMP is 133% of that amount. Department of Health and Human Services Reference Table Manual (RFT) 246 (April 1, 2014), p 1.

The Claimant was an ongoing MA recipient under the HMP category as a group of two when the Department initiated a routine redetermination of his eligibility to receive continuing benefits. On April 29, 2015, the Claimant provided the Department with the information it used to determine his eligibility for benefits.

The Claimant received monthly earned income for April of 2015, in the gross monthly amount of \$ [REDACTED]. The Claimant received monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. The Claimant received per diem payments from his employer in April of 2015, in the gross monthly amount of \$ [REDACTED].

There is a monthly limit of \$ [REDACTED] for a group of two to receive HMP benefits.

The Claimant argued that the Department had improperly determined his monthly income because the per diem payments should not be considered earned income because they are actually reimbursements for expenses he incurred while working away from home.

The Department conceded that the per diem payments may be excluded from countable income as defined by BAM 500.

However, if all of the per diem payments are removed from the Claimant's countable income, he remains ineligible for HMP benefits based on the remainder of his income. The Claimant does not dispute that he received earned income in the gross amount of \$ [REDACTED] and RSDI benefits totaling \$ [REDACTED]. The sum of these categories of income is \$ [REDACTED] which exceeds 133% of the federal poverty level.

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 acted in accordance with Department policy when it closed the Claimant's Healthy Michigan Plan (HMP) benefits due to his income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/21/2015**

Date Mailed: **7/21/2015**

KS/las

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:

