

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

IN THE MATTER OF:



Reg. No.: 15-009137
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: July 22, 2015
County: Branch

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 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Eligibility Specialist, and [REDACTED] as hearing facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) 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) and Food Assistance Program (FAP) recipient.
2. On May 18, 2015, the Department received a Verification of Employment (DHS-38) from [REDACTED], listing earned income for [REDACTED] that started on April 27, 2015.
3. On May 22, 2015, the Department received a Verification of Employment (DHS-38) from [REDACTED] listing income for [REDACTED], starting on November 25, 2014, and ending on April 27, 2015.
4. On May 26, 2015, the Department notified the Claimant that it would close Medical Assistance (MA) benefits as of July 1, 2015.

5. On May 26, 2015, the Department notified the Claimant that it would close Food Assistance Program (FAP) benefits as of July 1, 2015.
6. On May 30, 2015, the Department received a New Hire Notice (DHS-4635) and the Claimant reported that [REDACTED] did not work at [REDACTED].
7. On June 3, 2015, the Department received a Verification of Employment (DHS-38) from [REDACTED], listing earned income for [REDACTED], starting on April 27, 2015.
8. On June 4, 2015, the Department received the Claimant's request for a hearing protesting the closure of her Medical Assistance (MA) and Food Assistance Program (FAP) 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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).

On May 12, 2015, the Department discovered that [REDACTED], had started new employment, but sent out a verification of employment with the son's social security number on it in error. The Department sent out additional verification forms and received documents showing earned income for [REDACTED] and [REDACTED]

Based on the income shown in the documents received by the Department, Medical Assistance (MA) and Food Assistance Program (FAP) were closed for the group based on their combined income.

The Claimant presented a memorandum from [REDACTED] indicating that despite the fact that its records show that [REDACTED], has been employed at that company, it appears that there was another person that received the income. The Claimant argued that [REDACTED] has never worked at [REDACTED] or [REDACTED]

This Administrative Law Judge finds that the Claimant has raised significant doubt as to the accuracy of the employment records the Department relied upon to determine the group's countable income.

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 the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits.


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. Allow the Claimant a ten-day period to provide verification of all countable income received by members of the benefit group.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of July 1, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Provide the Claimant with documentation detailing the income attributable to the benefit group used to determine benefits for July of 2015.

5. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.


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

Date Signed: **7/27/2015**

Date Mailed: **7/27/2015**

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:

