

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010025
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: August 19, 2015
County: OAKLAND-DISTRICT 3
(SOUTHFIELD)

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 August 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her husband [REDACTED]. Participants on behalf of the Department included Michelle Silas as hearing facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for 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 April 14, 2015, the Department sent the Claimant a Redetermination (DHS-1010).
3. On July 1, 2015, the Department notified the Claimant that she was approved for Medical Assistance (MA) with a \$ [REDACTED] deductible.
4. On June 26, 2015, the Department received the Claimant's request for a hearing protesting the closure of Food Assistance Program (FAP) benefits, and the level of Medical Assistance (MA) she is receiving.

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).

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides child care in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2015), p 1.

S-Corporations and Limited Liability Companies (LLCs) are not self-employment income. BEM 502, p1.

In this case, the Claimant is an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient. The Claimant reported receiving earned income from employment, but is also the owner of a domestic for-profit corporation. The Claimant reported receiving a salary paid from this corporation, but failed to report any profits received from this corporation.

The Department conducted a front end eligibility investigation into the Claimant's income sources and discovered that the Claimant's corporation has monthly net sales of \$[REDACTED]. The Department determined that these sales should be considered as self-employment income. Not having itemized business expenses, the Department applied the flat 25% expense deduction against these sales. The Department did acknowledge that the Claimant does not receive all of the proceeds from this business.

Based on this countable income determination, the Department determined that the Claimant is not eligible for Food Assistance Program (FAP) benefits due to excess income, and is eligible for Medical Assistance (MA) benefits as a caretaker relative with a monthly \$[REDACTED] deductible.

This Administrative Law Judge finds that the Department's front end eligibility investigation of the Claimant's income to be incomplete. No evidence was presented on the record to indicate that the Department requested verification of the Claimant's income, business income, or tax filing status. The evidence on the record supports a finding that the Claimant's business is a corporation and not a partnership. The

Department's front end eligibility investigation report indicates that the Department based its determination of income based on oral statements made by the Claimant. The evidence does not establish whether the income of this corporation should be considered self-employment income as defined by BEM 502 since not all income received by a corporation is considered the self-employment income of its shareholders.

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 eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA) program.

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. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of August 1, 2015.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. 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: **8/21/2015**

Date Mailed: **8/21/2015**

KS/■

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:

