

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-015720
Issue No.: 2002
Agency Case No.: ██████████
Hearing Date: October 21, 2015
County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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 October 21, 2015, from Detroit, Michigan. ██████████ testified and appeared as Petitioner's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Medical Assistance (MA) eligibility due to an alleged failure by Petitioner to verify income.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 10, 2014, Petitioner submitted an Assistance Application to MDHHS, requesting MA benefits, including retroactive MA benefits from June 2014.
2. Petitioner's application listed self-employment income of \$██████.
3. On July 17, 2014, Petitioner submitted a written statement to MDHHS reporting that he had no income for the months of March 2014 through June 2014.
4. On an unspecified date, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting a tax statement from 2014.

5. On June 18, 2015, Petitioner submitted a statement that he has not received earned income since June 2014.
6. On July 21, 2015, MDHHS denied Petitioner's application due to failing to verify income.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of MA benefits. Petitioner's AHR testified that the dispute was limited to Petitioner's MA eligibility from June 2014. A Health Care Coverage Determination Notice (Exhibits A1-A2) dated July 21, 2015, verified that MDHHS denied Petitioner's June 2015 MA eligibility due to Petitioner's failure to verify income.

For all programs except Children Under 19, [MDHHS is to]... verify all non-excluded [self-employment] income at... application. BEM 502 (July 2015), p. 6. Thus, it can be concluded that Petitioner had an obligation to verify self-employment income.

It was not disputed that Petitioner reported a [REDACTED] monthly self-employment income on his Assistance Application. It was not disputed that MDHHS mailed Petitioner a VCL requesting Petitioner's tax statement from 2014. It was also not disputed that petitioner did not return a tax statement. Petitioner provided various arguments to excuse the failure.

Petitioner's AHR alleged that Petitioner's application incorrectly listed Petitioner's self-employment income. Petitioner's AHR testified that Petitioner's application was completed by a hospital representative based on an interview with Petitioner. Petitioner's representative testified that Petitioner reported telling the hospital representative that he had no income. Petitioner's AHR further testified that Petitioner reported that the hospital representative responded that some income had to be listed. Thus, based on Petitioner's hearsay statements, Petitioner reported self-employment income on his application even though he had no income. Petitioner has obstacles in accepting his statements as accurate.

Petitioner did not bother to attend the hearing to present his testimony. Thus, it was left for Petitioner's AHR to report what Petitioner allegedly told him. Petitioner's failure to provide first-hand testimony lessens his credibility.

It was not disputed that Petitioner's child support history showed payments of [REDACTED]. It would be very difficult for Petitioner to pay [REDACTED] without any income. Petitioner provided an explanation for child support payments despite a supposed absence of income. Petitioner submitted a statement from his mother (Exhibit A5), indicating that she made the payments for him; the statement was also provided to MDHHS on June 25, 2015.

Petitioner presented a written statement that he did not receive income from March 2014 through July 2014 (Exhibit A3). Petitioner submitted the statement to MDHHS on July 17, 2014. The statement lends support to his credibility by showing he updated his application reporting to MDHHS shortly after applying for MA benefits. Petitioner provided an updated statement (Exhibit A4) to MDHHS on June 18, 2015, reflecting that he has not had income since June 2014.

Acceptable verification sources are broken into primary, secondary and third sources (see *Id.*, p. 7.) Tax returns are primary source verifications. Self-Employment Income Statement with receipts are secondary sources. A Self-Employment Income Statement without receipts is a third source. Petitioner returned an adequate third source to verify his claim of no self-employment income.

There is support to doubt Petitioner's veracity concerning a lack of income. Petitioner provided a minimally adequate explanation for meeting child support obligations despite a lack of income. Petitioner also provided a plausible excuse for the discrepancy between his current claim and his application reporting. Other than Petitioner's statement on his application, MDHHS did not provide any evidence that Petitioner was self-employed.

It is found that Petitioner has no self-employment income. It is further found that Petitioner sufficiently verified his lack of self-employment income with written statements submitted to MDHHS.

During the hearing, MDHHS alleged that Petitioner's reporting of income did not alter undisputed facts that Petitioner failed to submit a 2014 tax statement which was appropriately requested by a VCL. MDHHS noted that both of Petitioner's written statements concerning income failed to clarify whether he filed a tax return in 2014. Thus, MDHHS contended that Petitioner's benefits were appropriately denied due to Petitioner's failure to comply with a VCL request; the MDHHS contention was not persuasive.

[For MA income budgeting in a processing month], MDHHS is to] use amounts already received/available in the processing month. BEM 530 (January 2014), p. 3. In addition, estimate amounts likely to be received/available during the remainder of the month. *Id.*

If Petitioner had no income in June 2014 (as eventually reported by Petitioner), MDHHS had no need for a 2014 tax statement to determine Petitioner's June 2014 MA eligibility. MDHHS cannot deny an application based on a client failure to return an unnecessary verification. It is found that MDHHS improperly denied Petitioner's MA eligibility for June 2014.

DECISION AND ORDER

The actions of MDHHS are **REVERSED**.

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. redetermine Petitioner's MA eligibility for June 2014, subject to the finding that Petitioner adequately verified an absence of self-employment income; and
2. initiate supplement of any benefits improperly not issued.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/23/2015**

Date Mailed: **10/23/2015**

CG/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]