

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


IN THE MATTER OF:



MAHS Reg. No.: 15-019051
Issue No.: 2001
Agency Case No.: 119635299
Hearing Date: December 10, 2015
County: St. Joseph

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 December 10, 2015, from Lansing, Michigan. Claimant personally appeared and testified. The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor .

ISSUE

Did the Department properly close 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. On July 14, 2015, the Department mailed Claimant a Redetermination packet.
2. On August 3, 2015, the Department received the completed Redetermination packet from Claimant. (Dept Ex. A, pp 3-8).
3. On August 25, 2015, the Department mailed Claimant a Health Care Coverage Determination Notice informing her that as of October 1, 2015, she was no longer eligible for MA because she was over the income limit. (Dept Ex. A, pp 15-17).
4. On September 25, 2015, the Department received Claimant's request for a hearing.

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.

Prospecting income means arriving at a best estimate of the person's income. Prospect income when you are estimating income to be received in a processing or future month. Your best estimate may not be the exact amount of income received. BEM 530, p 3 (1/1/2014). Some of the reasons income fluctuates is because:

- The number of hours worked in a month may fluctuate.
- The amount of tips may vary from payday to payday. BEM 530, p 4.

Use the following guidelines for prospecting income:

- For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings.
- Paystubs showing year-to-date earnings and frequency of pay are usually as good as multiple paystubs to verify income.
- A certain number of paystubs is not required to verify income. If even one paystub reflects the hours and wages indicated on the application, that is sufficient information.
- If a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs.
- If you have an opportunity to talk with the client, that may help establish the best estimate of future income. BEM 530, p 4.

In this case, the Department calculated Claimant's income by averaging based solely on the paystubs Claimant submitted. However, Claimant credibly testified she told the

case worker that her hours varied. Claimant also indicated on the redetermination that her hours varied from month to month, and season to season.

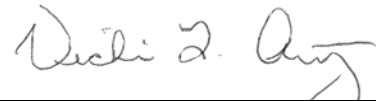
Therefore, based on Claimant's fluctuating hours, the Administrative Law Judge finds that the Department should have calculated the Claimant's income by prospecting her income, not averaging the income from the paystubs she submitted. As a result, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it averaged Claimant's income instead of prospecting her income.

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. Redetermine Claimant's MA eligibility back to the date of denial by prospecting her income in accord with this decision and issue Claimant any retroactive MA benefits she is otherwise entitled to.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/17/2015**

VA/nr

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:

