

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

IN THE MATTER OF:



MAHS Reg. No.: 15-019239
Issue No.: 2002, 3002
Agency Case No.: [REDACTED]
Hearing Date: December 15, 2015
County: CALHOUN (DISTRICT 21)

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 December 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

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 August 4, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting clarification of some unearned income.
3. On August 12, 2015, the Claimant submitted documents as verification of the unearned income.
4. On August 20, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) repeating its request for unknown unearned income.

5. On October 7, 2015, the Department notified the Claimant that it would close her Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of November 1, 2015.
6. On October 12, 2015, the Department received the Claimant's request for a hearing protesting the closure of her 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).

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, 2015).

Income means a benefit or payment received by an individual which is measured in money. BEM 500, p 3.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2015), pp 1-9.

The Department will send a negative action when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. Department of Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2014).

The Claimant was an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient when the Department became aware of unearned income reported to the IRS in the Claimant's name that had not been verified to the Department. On August 4, 2015, and August 12, 2015, the Department requested verification of her unearned income. On October 7, 2015, the Department determined that the Claimant had not provided sufficient verification of this unearned income and it notified the Claimant that it would close her MA and FAP benefits.

The Claimant previously owned a home in the state of New York. There is an escrow account associated with that home intended to be used for repairs. The Claimant does not have access to the funds in the account, but the account accrues interest that is reported to the IRS as income.

This Administrative Law Judge finds that the Department failed to establish that this income was "received" by the Claimant and therefore does not fall under the definition of income in BEM 500.

Furthermore, this Administrative Law Judge finds that the Claimant made a reasonable effort to provide the Department with verification of this interest income as defined by BAM 130.

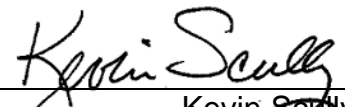
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) 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. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of November 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: **12/21/2015**

Date Mailed: **12/21/2015**

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 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:

