

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000521
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 02, 2015
County: OAKLAND-DISTRICT 3

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 2, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's application for Medical Assistance (MA)?

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 [REDACTED], the Claimant filed an application for Medical Assistance and Retroactive application for Medical Assistance for January 2014 through March 2014. Exhibit 1
2. The Department issued a Verification Checklist on [REDACTED], with a due date of [REDACTED], requesting verification of self-employment including recent business receipts to date, recent accounting or other business records to date, statement of value of an IRA, recent income tax return and a current bank statement. Exhibit 2
3. On [REDACTED], the Department issued a Health Care Coverage Determination Notice denying the Claimant application as of [REDACTED]. The

reason for the denial was that the verification of retirement IRA or Keogh Account, self-employment payments and bank account checking were not returned. The annual income used was \$318,720. The Department could not explain how it determined this income amount and conceded the amount was incorrect. The budget summary for the Claimant's income was not provided. Exhibit 3

4. The Claimant receives RSDI in the amount of \$745 monthly, which she has received since 2012. The Claimant testified that she has an in-home day care business (self employed) on her application but that she does not work as she has stage 4 lung cancer. Claimant used a teacher to run that day care.
5. On [REDACTED] timely verifications were faxed which included the Claimant's 2013 Individual Michigan Income Tax Return; and a Federal Income Tax Return for an S Corporation for Ellas Stars, Inc. Exhibits 5 and 7
6. [REDACTED] is an in-home day care, and [REDACTED] is a day care business. The Claimant has a 10% interest in the [REDACTED] business and her son has a 90% interest. The Claimant's interest is passive- she does not do any work in either of the businesses. The Claimant's interest was reduced as of [REDACTED]. Exhibit 1 and Claimant Exhibit A, page G
7. The Michigan Income Individual Tax Return shows adjusted gross income of \$22,074. Exhibit 1, p 23.
8. The Department did not advise as to what it determined the monthly income the Claimant was receiving at the time of the MA application.
9. The [REDACTED] U.S. Income Tax Return for an S Corporation return showed it received rental income in the amount of \$6507 and S Corp earned income of \$7437. [REDACTED] had earned income of \$8130. The total income for both entities was \$22,074. Exhibit 6, p. 29.
10. At the end of 2013 the Claimant's testified that she no longer owned either of the day care businesses. The Claimant is listed in records with the State of Michigan as the authorized officer or agent on both forms. Exhibit 9
11. The Claimant requested a hearing on January 6, 2015 protesting the Department's denial of her application for MA.

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.

In this case, after a thorough review of the record it is determined the Department failed to establish any basis as to how it determined the income when determining the Claimant's eligibility. The Department's annual income determination is grossly incorrect (\$318,720), and the Department could not explain how it was determined. Thus, based upon the Department's failure to explain the income it used to deny the application, the application must be reprocessed and redetermined as regards the income. It should also be noted that when reprocessing the application, the Claimant's income from any S Corporation is not self-employment income. BEM 502, (July 1, 2015) p. 1

Note: S-Corporations and Limited Liability Companies (LLCs) are not self-employment.

Also, as the Claimant receives RSDI, she should be considered for an SSI related spend down if she otherwise meet the other eligibility factors. BEM 530 (January 1 2014), P. 5 and BEM 545 (January 1, 2015)

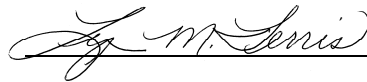
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's medical assistance application as the annual income was incorrect.

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. The Department shall reinstate the Claimant's [REDACTED] MA application and redetermine Claimant's income and eligibility. The Department should consider the Claimant's monthly income for the 30 days prior to the application.
2. The Department shall provide the Claimant notice of its eligibility determination.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/6/2015**

Date Mailed: **8/6/2015**

LMF / hw

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:

