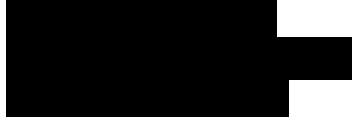


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-007055
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 07, 2015
County: GENESEE-DISTRICT 2
(MC CREE)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 July 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance on June 1, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of Medical Assistance under the Healthy Michigan Plan. Claimant was due for a re-determination of his ongoing eligibility.
2. On February 10, 2015, Claimant was sent a Redetermination (DHS-1010).
3. On February 24, 2015, Claimant returned the Redetermination (DHS-1010) along with verification of his pension income.
4. On April 21, 2015, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated he was not eligible for Healthy Michigan Plan due to excess income.
5. On May 1, 2015, Claimant submitted a hearing request.

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, the parties agree that Claimant receives a \$3,255 per month from the City of Detroit Police and Fire Retirement System. The Department asserts it must be counted as income. Claimant testified that for federal income tax purposes the income is not counted. Claimant testified that he was receiving the same income last year and was approved.

The Department submitted an Email from their MA Policy Office which states that Claimant “would need to provide proof that this is being received in lieu of Worker’s Compensation in order for this to be excluded.” Claimant submitted his 2013 and 2014 1040A forms and 1099 forms from the payer.

The Modified Adjusted Gross Income (MAGI) Related Eligibility Manual states:

CHAPTER 7 INCOME

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards.

Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges.

7.1 COUNTABLE INCOME SOURCES

The following are common sources of income which are countable in a MAGI related determination:

- Wages/Salary
- Self-Employment
- RSDI
- Pensions
- Unemployment Benefits
- Spousal Support

7.2 NON-COUNTABLE INCOME SOURCES

The following are common sources of income which are not countable in a MAGI related determination:

- Child Support
- Workers Compensation
- American Indian/Native American payments
- Veteran's Benefits such as:
 - Aid and attendance
 - Augmented compensation
 - Educational benefits
 - Housebound allowance
 - Unusual medical expenses
- Supplemental Security Income
- Adoption Subsidy
- Disaster Relief Payments

CHAPTER 11 RENEWALS

11.1 REQUIRED ANNUALLY

A thorough evaluation of eligibility is required at least every 12 months. An in person interview is not required.

11.2 RENEWAL PACKET

A renewal packet is sent to the individual three days prior to the negative action cut-off date in the month before the renewal is due. This allows time to process the renewal before the end of the renewal month. Verifications are due the same date as the renewal packet.

11.3 VERIFICATIONS

Renewals must use all pertinent existing information available for an individual to attempt to automatically renew eligibility. Verification must not be requested from the individual if that information is available in the State of Michigan systems.

Only information that has changed or is missing may be requested from the individual. Correspondence must indicate what information was utilized in making the eligibility renewal decision.

11.5 REINSTATEMENT

If a renewal results in a closure, the individual must be provided a notice that indicates what information was used to reach the decision of ineligibility. An individual has 90 days to submit documentation that the information used was not accurate. Coverage must be reinstated in this instance.

Bridges Eligibility Manual (BEM) 500 Income Overview (2015) at page 3, under definitions, states:

Modified Adjusted Gross Income (MAGI)

MAGI for purposes of Medicaid eligibility is a methodology which state agencies and the federally facilitated marketplace (FFM) must use to determine financial eligibility. It is based on Internal Revenue Service (IRS) rules and relies on federal tax information.

These policies clearly state that MAGI is based on federal tax (IRS) rules for determining adjusted gross income. There is also a list of some “common” sources of countable income and income which is not countable. The policies promulgated by the State of Michigan are not intended to be a full recitation of all IRS rules used to calculate an individual’s adjusted gross income.

Claimant has submitted his 2013 and 2014 1009-R forms completed by the City of Detroit Police and Fire Retirement System in accordance with IRS rules. The forms show that none of the distribution Claimant receives is taxable. The forms also identify the distributions as “Reduced Duty Disability”.

A review of policy promulgated by Michigan, did not find a specific definition for “pension.” The common perception of “pension” is a payment earned by a worker who has completing a period of employment and reached a qualifying milestone of service such as age or minimum number of years employed. This type of regular pension is earned by a person who is still capable of continuing to work but elects to end employment and receive a pension based on achieving the qualifying milestone.

When the common examples of non-countable income sources listed above is reviewed, it shows some correlation between non-countable income sources and the inability to work. Worker’s compensation, some of the benefits available to disabled veterans and Supplemental Security Income (SSI) are payments made to persons who are unable to work due to medical conditions.

Review of federal tax forms 1040 and 1040A both show that only the taxable amount of pensions, annuities and Social Security benefits are used in calculating total income and adjusted gross income. How IRS rules classify a pension is at the heart of calculating a pension recipient's adjusted gross income for tax purposes. The Department has presented evidence showing that Michigan's guidance to case workers requires counting all pensions. However, no evidence has been presented that shows Michigan is correctly disregarding IRS rules of how to classify pension income.

Additionally, Claimant testified, and the evidence shows, the pension income did not change. Section 11.3 Verifications, of the MAGI manual cited above, states that all pertinent existing information available be used for an individual to attempt to automatically renew eligibility. It also says only information that has changed or is missing may be requested from the individual.

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 closed Claimant's Medical Assistance on June 1, 2015.

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. Reinstate Claimant's Medical Assistance and process his eligibility re-determination in accordance with Department policy.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/10/2015**

Date Mailed: **7/10/2015**

GFH / 

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:

