

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016093
Issue No.: 2004
Agency Case No.: [REDACTED]
Hearing Date: December 7, 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 December 7, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's children's Medical Assistance (MA) eligibility.

FINDINGS OF FACT

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

1. Petitioner was the father of two minor children who were ongoing Medicaid recipients with a redetermination scheduled for October 2015.
2. Petitioner's children received [REDACTED]/month in Retirement, Survivors, Disability Insurance (RSDI) benefits.
3. Petitioner reported to MDHHS self-employment income of [REDACTED] 0 per month on a Redetermination.
4. Petitioner did not include self-employment expenses with the Redetermination.
5. On August 21, 2015, MDHHS determined Petitioner's children were not eligible for Medicaid, effective October 2015, due to not meeting a Medicaid eligibility category.

6. On August 21, 2015, MDHHS mailed a Verification Checklist (VCL) requesting proof of Petitioner's self-employment expenses.
7. The VCL due date was August 31, 2015.
8. Petitioner did not report any self-employment expenses to MDHHS.
9. On September 9, 2015, Petitioner requested a hearing to dispute the termination of his children's MA eligibility.

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).

The Healthy Michigan Plan is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGI).

Petitioner requested a hearing to dispute the termination of his children's MA coverage, effective October 2015. MDHHS presented conflicting reasons for the benefit termination.

MDHHS presented a Health Care Coverage Determination Notice (Exhibits 1-3) which stated the basis for termination was that neither child was under 21, pregnant, blind, disabled, over 65 years of age, or a caretaker of a disabled child. It was not disputed that both children were younger than 21 years of age. Thus, based on the presented written notice, MDHHS appears to have erred in terminating benefits.

MDHHS testimony alleged a different reason for the MA benefit termination. MDHHS testimony indicated Petitioner's children's MA eligibility was terminated due to excess income. MDHHS also presented documents to support a termination of benefits due to excess income.

It was not disputed that MDHHS requested proof of Petitioner's self-employment expenses (via VCL) and that Petitioner did not respond. A projection of Petitioner's self-employment income and his children's SSA-issued benefits tended to support a finding that Petitioner's household income exceeded the income limits for MA (see Exhibit 2). Despite the evidence supporting a termination based on excess income, MDHHS failed in their procedural obligations.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BEM 220 (October 2015), p. 2. A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. *Id.*

There are two types of written notice: adequate and timely. *Id.*, p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, p. 4. The action is pended to provide the client a chance to react to the proposed action. *Id.* The present case demands timely notice (see BAM 220) because Petitioner's children were ongoing benefit recipients.

MDHHS failed to establish that the written notice of MA termination included the proper reason for termination. Had MDHHS issued a notice that Petitioner's children were denied due to excess income, Petitioner would have had additional time to respond to the notice. During the 11 day period before the termination became final, Petitioner may have returned proof of self-employment expenses. MDHHS deprived Petitioner of the opportunity by failing to inform Petitioner that the actual basis for termination was excess income.

Due to the improper notice, it is found that MDHHS improperly terminated Petitioner's children's MA eligibility. If Petitioner is over-income for MA eligibility, MDHHS may take appropriate actions following the reinstatement of Petitioner's eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA benefit eligibility. It is ordered that within 10 days of the date of mailing of this decision, MDHHS reinstate

Petitioner's children's MA eligibility, effective October 2015, subject to the finding that MDHHS failed to issue proper notice of termination to Petitioner. The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/15/2015**
Date Mailed: **12/15/2015**
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:

