

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-023450
Issue No.: 2001; 3001
Agency Case No.: ██████████
Hearing Date: February 04, 2016
County: Macomb-District 20
(Warren)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 4, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case due to excess net income?

Did the Department properly close Petitioner and his wife's Medicaid (MA) cases under the Healthy Michigan Program (HMP) and determine they were eligible for MA with a monthly deductible?

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 an ongoing recipient of FAP benefits.
2. Petitioner and his wife were receiving MA benefits under HMP.
3. Petitioner's household has five members: Petitioner, his wife, and their three minor children.

4. On November 30, 2015, Petitioner timely submitted a New Hire Client Notice concerning his wife's employment at [REDACTED] and included four paystubs (Exhibit A, pp. 5-10).
5. On December 10, 2015, the Department sent Petitioner (i) a Notice of Case Action notifying him that his FAP case was closing effective January 1, 2016 because his net income exceeded the limit for eligibility and (ii) Health Care Coverage Determination Notice notifying him that effective January 1, 2016 he and his wife were eligible for MA subject to a monthly \$1681 deductible (Exhibit A, pp. 1-4; 19-22).
6. On December 17, 2015, the Department received Petitioner's request for hearing disputing the Department's actions concerning his MA and FAP cases and challenging the Department's calculation of his household's income for those programs.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

Petitioner filed a December 22, 2015 hearing request challenging the December 10, 2015 Notice of Case Action closing his FAP case effective January 1, 2016 on the basis of excess net income and the December 10, 2015 Health Care Coverage Determination Notice notifying him that he and his wife were eligible for MA subject to a monthly \$1681 deductible beginning January 1, 2016 (Exhibit A, pp. 1-4, 19-22). At the hearing, the

Department explained that the changes were due to income reported by Petitioner's wife in response to a November 30, 2015 New Hire Client Notice concerning her employment at [REDACTED], which, when added to the previously reported income from [REDACTED], resulted in Petitioner's ineligibility for FAP benefits due to excess net income and to his and his wife's eligibility for MA subject to the monthly deductible.

However, after Petitioner filed his hearing request, the Department reviewed Petitioner's cases and realized that Petitioner reported in the New Hire Client Notice that his wife no longer worked for [REDACTED]. The Department acknowledged that it had included Petitioner's wife's employment income from [REDACTED] [REDACTED] when it determined Petitioner's ongoing FAP and MA eligibility. The Department further acknowledged that it was able to verify from information retrieved from the Work Number, a Department-accessible database where employers voluntarily report employment information, that Petitioner was no longer working for [REDACTED] as of November 27, 2015 (Exhibit A, pp. 11-12). Because the Department used incorrect income information in processing Petitioner's FAP and MA cases, the Department did not act in accordance with Department policy when it closed Petitioner's FAP case due to excess net income and when it determined that Petitioner and his wife were no longer income-eligible for MA coverage under the HMP program but were eligible for coverage under a Group 2 Caretaker (G2C) program subject to a monthly \$1681 deductible.

It is noted that, after it reviewed Petitioner's case, the Department sent Petitioner a December 22, 2015 Verification Checklist (VCL) requesting 30 days of employment income from [REDACTED] and advising him that he would need to advise the Department if he claimed his children as dependents on his taxes (Exhibit A, pp. 15-18). The Department testified that Petitioner's cases were pending awaiting the requested verifications.

At the hearing, Petitioner explained that his wife had been employed at [REDACTED] through [REDACTED], a temporary employment company, and then hired by [REDACTED] as its own employer. A review of the information Petitioner provided with the New Hire Client Notice he submitted to the Department on December 9, 2015 is confusing: it appears that Petitioner reported his wife's income from her employment at [REDACTED] but then noted that her employment at [REDACTED] had started the prior week. The paystubs provided reference both employers. When information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory, the Department may request verification. BAM 130 (July 2015), p. 1. Because of the confusion concerning Petitioner's wife's employment, the Department could properly request verification of employment in order to process Petitioner and his wife's FAP and MA cases.

While Petitioner also questioned the Department's calculation of his annual employment income at the hearing, the Department relied on Petitioner's income as a taxi driver as reported in his April 2015 redetermination and there is no evidence that Petitioner reported any change in income at any time prior to the December 10, 2015 notices concerning his FAP and MA cases.

The Department also pointed out at the hearing that Petitioner's and his wife's MA eligibility was based on his statements in his May 12, 2015 redetermination that he and his wife filed taxes jointly but did not claim their children as dependents, making them a group of two for MA purposes (Exhibit A, pp. 25-26). Whether the children are claimed as dependents will affect the household size for determination of the type of MA program Petitioner and his wife are eligible for, specifically for determining their eligibility for HMP coverage. See 42 CFR 435.603; BEM 137 (January 2016), pp. 1-3; BEM 211 (January 2016), pp. 1-2.

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 Petitioner's FAP case due to excess net income and determined that he and his wife were eligible for MA subject to a monthly deductible.

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 Petitioner's FAP and MA cases effective January 1, 2016;
2. Issue supplements to Petitioner for FAP benefits he was eligible to receive but did not from January 1, 2016 ongoing;
3. Provide Petitioner and his wife with HMP coverage for January 1, 2016 ongoing; and
4. Provide Petitioner with timely notice of any changes to his FAP and MA cases.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/12/2016**

Date Mailed: **2/12/2016**

ACE / tlf

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:

Age Group	Percentage Vaccinated
18-24	15%
25-34	25%
35-44	35%
45-54	45%
55-64	65%
65-74	85%
75-84	75%
85+	60%