



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 30, 2016
MAHS Docket No.: 16-001302
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 March 29, 2015, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified with his witness, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED] [REDACTED].

The following exhibits were offered and admitted into evidence:

Department: A--computer screen shot of case file and copies of paycheck stubs.
B--computer screen shot of MA budget amount.
C--January 15, 2016, DHS-1606, Health Care Coverage Determination Notice.
D--February 8, 2016, Kent County DHS bridges help request.

Petitioner: None.

ISSUE

Did the Department properly take action to close the Petitioner's Medical Assistance (MA) case due to excess income?

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 Petitioner was an ongoing recipient of MA benefits.
2. On December 17, 2015, the Department received updated information regarding the Petitioner's earned income increasing.
3. On January 15, 2016 the Petitioner was sent a DHS-1606, Health Care Coverage Determination Notice, informing the Petitioner that his MA case would be closing due to excess income.
4. On January 26, 2016, the Department received the Petitioner's written a hearing request protesting the closure of the Petitioner's MA case.

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 Administrative Law Judge inquired as to the Petitioner's potential eligibility as a caretaker of minor children. The Department testified that the Petitioner is not eligible under that category because the minor children he takes care of are not his own, even though he lives with the children's mother. As promised during the hearing, this Administrative Law Judge did examine Bridges Eligibility Manual (BEM) 211 (2015), pp. 2, 3, which addresses the rules four MA group composition. Unfortunately for the Petitioner, this Administrative Law Judge could find no provision in this policy which would include the Petitioner as a caretaker when he lives with the mother of children that are not also his.

BEM 211 does provide that group composition for MAGI-related categories follows tax filer and tax dependent rules. In this case, this Administrative Law Judge carefully reviewed the income verification as well as the MA budget amount and the annual income amount contained on the DHS-1606, Health Care Coverage Determination Notice. The Department testified that the Bridges Computer system did look at income verification from November 11, 2015 to December 10, 2015. Simply put, this Administrative Law Judge could not reconcile, and the Department could not testify with any certainty, how it was that the Petitioner's annual income amount was determined. Therefore, this Administrative Law Judge concludes that the Department fails to meet its

burden of proving that it acted in accordance with departmental policy when taking action to close the Petitioner's MA case based on excess income.

Furthermore, the Petitioner and his wife testified that the Petitioner's pay during the month considered was unusually high due to holiday overtime. The Department did not testify as to how it was that it accounted for this unusually high pay. The paycheck stubs between November 11, 2015 and December 10, 2015 are somewhat higher than those immediately preceding November 11, 2015. BEM 505 (2015) pp. 5, 6, provides that if income is fluctuating or irregular, that the Department use income from the past 60 or 90 days when the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505 pp. 9, 10, also provides instructions as to when the Department should complete a budget and how to process a change involving an income increase or income decrease.

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 took action to close the Petitioner's MA case.


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. Redetermine the Petitioner's eligibility for MA back to February, 2016, and
2. During that process, make a determination as to whether or not the income verification considered is irregular or fluctuating and document why or why not, and
3. Issue the Petitioner any supplement he may thereafter be due, and
4. Expedite a bridges help desk ticket to supplement the Petitioner for benefits that could not be issued, due to Bridges computer problems, pending the hearing.

SH/nr



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]