RICK SNYDER GOVERNOR

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

SHELLY EDGERTON



Date Mailed: February 3, 2017 MAHS Docket No.: 16-019310

Agency No.: Petitioner:

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in-person hearing was held on from Detroit, Michigan. The Petitioner was represented by of the Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by Family Independence Manager, and Eligibility Specialist.

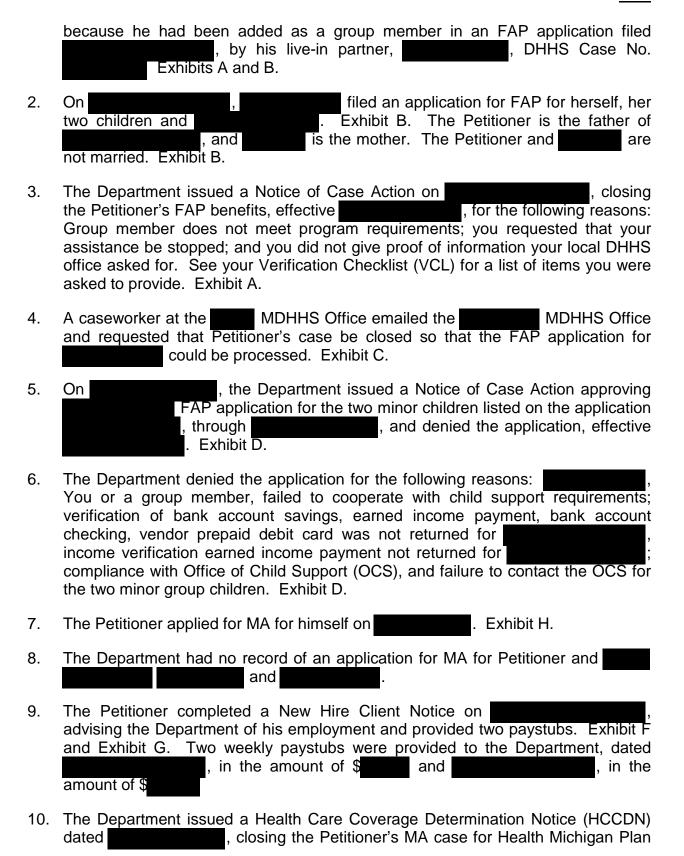
ISSUE

- 1. Did the Department properly process the Petitioner's Food Assistance Program (FAP) case?
- 2. Did the Department properly process the Petitioner's FAP case based upon the application filed by group member?
- 3. Did the Department properly deny the Petitioner'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.	The	Petitioner	was	an	FAP	recipie	nt	with	his	own	case,	DHHS	Case	No
		-	The F	² etiti	oner's	case	wa	s clo	osed	, effe	ective			



(HMP), effective , due to his income exceeding the income limit for the HMP. The Notice listed annual income of \$ as the income used to determine health care coverage for the Petitioner. Exhibit E.

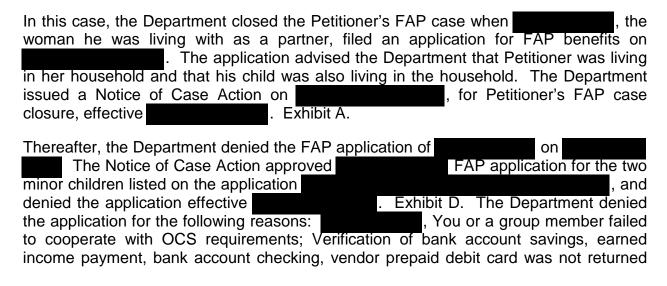
11. The Petitioner requested a timely hearing on was entitled to a full FAP allowance and asserting that all persons in his house are eligible for MA.

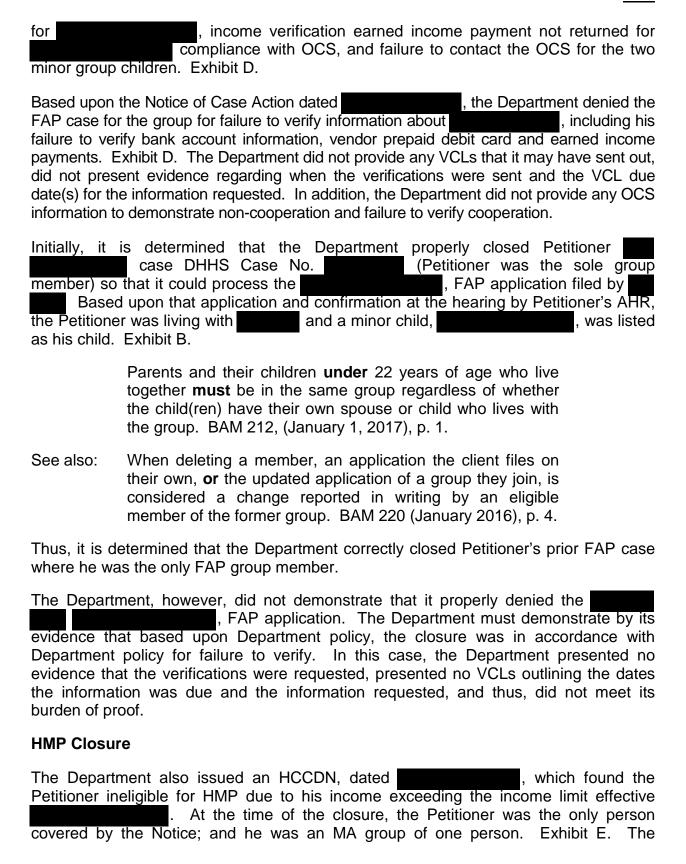
CONCLUSIONS OF LAW

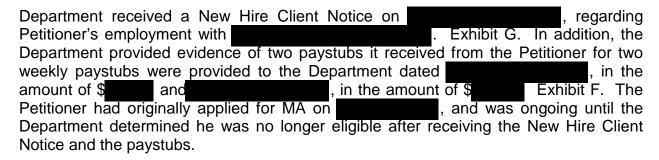
Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The 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.







Based upon the new employment and the income reported, the Department determined that the Petitioner had excess income and was thus, ineligible for HMP MA coverage.

Medical Assistance is available (i) to individuals who are aged (65 or older), blind or disabled under Supplemental Security Income (SSI)-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2016), p. 1.

Healthy Michigan Plan is a Modified Adjusted Gross Income (MAGI)-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the MAGI methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2016), p. 1.

Petitioner, who is under age not enrolled in Medicare and not the caretaker of any minor children, is potentially eligible for MA under the HMP. An individual is eligible for HMP if the Petitioner's household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence showed that Petitioner's household size for MAGI purposes is one. 133% of the annual FPL in for a household with one member is \$ https://aspe.hhs.gov/poverty-guidelines. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$ https://aspe.html.gov/poverty-guidelines.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (January 2016), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that for current beneficiaries and "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income. . . or income based on projected annual household income. . . for the remainder of the current calendar year."

At the hearing, the Department stated that it relied on the information contained in the verification of income Petitioner provided on Petitioner's projected annual income. (Exhibit C). Specifically, the Department stated that it considered monthly gross income of based upon the Employment Budget Summary indicating that amount. Exhibit I. Using this monthly amount of The Petitioner's monthly income when multiplied by 12 results in annual income of Although not explained at the hearing by the Department, it appears the Department added the Petitioner's two pays for together and determined the biweekly pay was and then multiplied that by to get monthly income of a month. Based upon this calculation, Petitioner's income of limit for HMP eligibility. However, for reasons explained hereafter, the Department's determination is incorrect.
to MAGI-related MA, the State of Michigan has elected to base eligibility on projected annual household income and family size for the <u>remaining months of the current calendar year</u> . The State has also elected to use reasonable methods to include a prorated portion of a reasonably predictable increase in future income and/or family size and to account for a reasonably predictable decrease in future income and/or family size. (See Medicaid State Plan Amendment TN No: MI-13-0110-MM3 https://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf and http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5080-108153,00.html).
Therefore, because the Department calculated Petitioner's projected annual income based on a 12-month projection and not based on his projected annual income for the remaining months of the current calendar year (), the four months remaining, the Department did not act in accordance with Department policy when it determined that Petitioner had excess income for HMP eligibility. His monthly income of for the remainder of the year would not have exceeded the HMP annual limit.
In addition, Department policy also requires that the Department determine whether the annual income is within 5% of the HMP income limit. Department policy in BEM 500 provides:
MAGI Related Medicaid 5 percent Disregard
 □ The 5 percent disregard is the amount equal to 5 percent of the Federal Poverty Level for the applicable family size. □ It is not a flat 5 percent disregard from the income. □ The 5 percent disregard shall be applied to the highest income threshold.

□ The 5 percent disregard shall be applied only if required to make someone eligible for Medicaid. BEM 500 (October 1, 2016), p. 5
Applying the 5% disregard, the HMP limit becomes \$
Based upon the above analysis, it is determined that the Department improperly closed the Petitioner's MA based upon HMP.
The Petitioner's proup, which includes his live-together partner, his child and her child are all eligible for Medicaid. Based upon the evidence presented, there is no support for this claim of eligibility for Medicaid. The Department could find no application for MA for Petitioner and these members. The only application was Petitioner's MA application which is discussed above and is reinstated. However, that application was closed at the time of the hearing request and thus only addresses Petitioner's eligibility at the time of the closure as the sole group member. Thus there is no basis to determine MA eligibility for anyone other than Petitioner.
DECISION AND ORDER
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 acted in accordance with Department policy when it closed the Petitioner's FAP, DHS Case No.
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 the Petitioner's HMP medical assistance case due to his income exceeding the HMP limit.
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 the FAP application of The Fallure to verify information.
Accordingly, the Department's decision is
AFFIRMED with respect to the Closure of Petitioner's FAP Case No.
REVERSED with respect to closure of Petitioner's HMP MA case.

REVERSED with respect to the denial of the failure to verify information.

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 Petitioner's HMP MA case effective
- 2. The Department shall re-register or re-instate the application DHHS Case No. and process the case to determine FAP eligibility.
- 3. The Department shall issue an FAP supplement, if Petitioner is otherwise eligible in accordance with Department policy.

LMF/jaf

Lynn M. Ferris

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

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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**

Petitioner

Counsel for Petitioner

