



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 16, 2017
MAHS Docket No.: 17-004495
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on May 30, 2017, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Stella Brown-Jackson, Family Independence Manager, and Andrea Jamison, Eligibility Specialist.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA), Healthy Michigan Plan (HMP)?

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 a recipient of MA benefits, Healthy Michigan Plan.
2. The Department closed the Petitioner's MA after a FEE investigation referral was requested regarding the Petitioner's alleged self-employment income.
3. The Petitioner acknowledged in his hearing request that he was asked to provide proof of income by the Department. The Petitioner also filled out paperwork and returned the information to the Department leaving it at the front desk stating that

he didn't get an income. He states in his hearing request that he cleans up properties for favors of food and small change, clothes and a place to sleep.

4. The Petitioner said he was homeless at the hearing.
5. On February 2, 2017, the Department allegedly sent the Petitioner a request for verification of self-employment income due February 17, 2017.
6. It was unclear who determined that Petitioner had income that was not being reported. The OIG requested that the Department caseworker request verification of self-employment income.
7. The Petitioner has not recently filed income taxes. The Petitioner used to do plumbing work but had not worked in nine (9) months and had been on the DHHS list to do plumbing but was no longer doing so. The Petitioner was not keeping track of his odd jobs earnings. The Petitioner had not records from which to report his earnings.
8. The Petitioner provided a response to the Department request for self-employment income stating he received nothing for income. Petitioner said he returned the documents before the due date.
9. The Petitioner stated the trouble began when he failed to change his old voicemail for plumbing making the Department believe he was working and had income.
10. The Petitioner requested a timely hearing on March 27, 2017, protesting the Department's actions.

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 Department allegedly closed the Petitioner's case for failure to provide proof of self-employment income. The Department, in its case presentation, provided no documentation of what it requested of Petitioner and when the Department received

the information from Petitioner. The Department provided no documentation regarding the closure, such as a Health Care Coverage Determination Notice to establish the date of closure for MA and to demonstrate the reason(s) for closure. Petitioner said he filed the requested income information timely and reported he earned no income.

Because the burden of proof is on the Department to establish when the document filed by Petitioner was received and substantiate case closure and the reason for closure, the Department failed its burden of proof.

Petitioner credibly testified that he had no work as a plumber and was doing odd jobs and received in-kind income. He had not kept a record of his in-kind income and did not file taxes. Also, the Department must verify self-employment income by requesting the Petitioner complete a Schedule C Profit or Loss from Business tax form, which is the only verification method for MA. The Department is also required to assist the Petitioner in doing so as he does not file taxes. The form can be used even if not filed with the IRS.

In addition, the Department allegedly sent the self-employment verification because the Petitioner allegedly had self-employment income which is **required** to be verified by a Schedule C. BEM 502 provides that the verification sources for self-employment income for MA must be demonstrated by a Schedule C Profit or Loss from Business:

Schedule C, Profit or Loss from Business is the primary source of verification. This form is generally used in conjunction with IRS Form 1040, 1040NR or 1041.

Schedule C is acceptable even if not yet filed with the IRS.

The DHS-431, Self-Employment Statement, is not acceptable verification for Medicaid purposes. BEM 502, (January 1, 2017), p. 7. (Emphasis supplied)

Even though the Petitioner testified that he had no self-employment income and does not file taxes, the Department is only allowed to verify self-employment income for Medicaid by the completion of a Schedule C and did not demonstrate that it did so in this case.

Further, based upon Petitioner's testimony at the hearing and his hearing request he established that he receives in-kind income. Department policy in BEM 500 provides:

In-Kind Benefits

Bridges **excludes** as income any gain or benefit in a form other than money. For example: meals, clothing, home energy, garden produce and shelter. It includes shelter provided by an employer instead of cash wages.

Based upon BEM 500 and BEM 502 requirements above the Department failed to meet its burden to demonstrate that it properly closed the Petitioner's MA, HMP; and thus, the Department has not demonstrated that it complied with Department policy in doing so.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's MA HMP benefits.

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. The Department shall reinstate the Petitioner's MA Healthy Michigan Plan Benefits as of the date of closure of the MA case by the Department.
2. The Department shall provide the Petitioner written notice of its reinstatement.

LMF/jaf



Lynn M. Ferris
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

Petitioner



DHHS

Wayne (57)

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