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

IN THE MATTER OF:

Reg. No.:	2014-303
Issue No(s).:	2001
Case No.:	
Hearing Date:	December 3, 2013
County:	Gladwin

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Claimant'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. After due notice, a telephone hearing was held on December 3, 2013, from Lansing, Michigan. Participants on behalf of Claimant included and Authorized Hearing Representative, and , the Claimant. Participants on behalf of the Department of Human Services (Department) included April Palmreuter, Assistance Payments Worker.

ISSUES

1) Did the Department properly determine the Claimant was not eligible for the MI Choice Waiver program due to excess income?

2) Did the Department properly determine the Claimant was eligible for Medicaid 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. The Claimant's prior Medicaid case closed effective August 1, 2013, because the required Redetermination form was not returned.

2. On August 13, 2013, the Claimant applied for Medicaid and retroactive Medicaid.

3. On August 21, 2013, a MI Choice Waiver Agency sent the Department a fax indicating the Claimant was found eligible by the waiver agency with the waiver

enrollment effective May 31, 2013, and closing August 16, 2013, due to placement in a nursing facility.

4. On August 27, 2013, the MI Choice Waiver Agency sent the Department a fax indicating the Claimant was discharged from the nursing facility and was found eligible by the waiver agency with the waiver enrolment effective August 26, 2013.

5. The Department determined the Claimant was not eligible for the MI Choice Waiver effective July 2013 due to income in excess of the 300% SSI Federal Benefit Rate.

6. The Department re-determined the Claimant's Medicaid eligibility for the month of July 2013, and determined she has a deductible of [redacted] for this month.

7. On August 30, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was approved for August 2013, with a met deductible, and for Medicaid for September 1, 2013 and ongoing the Claimant has a monthly deductible of [redacted]

8. On September 9, 2013, the Claimant filed a request for hearing contesting the Department's actions.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210.

For the MI Choice Waiver Program, the waiver agent determines the waiver approval date and termination date. The waiver agent is responsible for advising the appropriate local DHS office of these dates. The waiver automatically terminates when the patient enters a Long Term Care facility. However, the local Department office is responsible for determining Medicaid eligibility. One of the eligibility criteria for the MI Choice Waiver states income must be at or below 300% of the SSI Federal Benefit Rate. The

policy also notes that a waiver client may no longer qualify for waiver services. However, they may still qualify for Medicaid. BEM 106. Effective January 1, 2013, the monthly SSI payment for an independent living individual is $710. RFT 248. Accordingly, the 300% of the SSI Federal Benefit Rate for the MI Choice Waiver program is $2,130.

For Medicaid, income eligibility exists for the calendar month tested when there is no excess income, or when allowable medical expenses are equal, or exceed the excess income. BEM 545 Additional Medicaid income budgeting eligibility and patient pay amount policies can be found in BEM 530, 541, 544, 545 and 546, as well as, RFT 200 and 240. The Department counts the gross amounts of Social Security and pension benefits as unearned income. BEM 503.

The Assistance Payments Worker testified that the Claimant's previous Medicaid case closed effective August 1, 2013, because the required Redetermination was not returned. Accordingly, the Claimant filed a new application for Medicaid and retroactive Medicaid on August 13, 2013. (Exhibit A, pages 3-26)

On August 21, 2013, a MI Choice Waiver Agency sent the Department a fax indicating the Claimant was found eligible by the waiver agency with the waiver enrollment effective May 31, 2013, and closing August 16, 2013, due to placement in a nursing facility. (Exhibit A, pages 27-32) On August 27, 2013, the MI Choice Waiver Agency sent the Department a fax indicating the Claimant was discharged from the nursing facility and was found eligible by the waiver agency with the waiver enrollment effective August 26, 2013. (Exhibit A, pages 37-39)

BEM 106 policy is clear that the Department is responsible for making the Medicaid eligibility determination for waiver participants and that the criteria incudes income being at or below 300% of the SSI Federal Benefit Rate. Effective January 1, 2013, the monthly SSI payment for an independent living individual is $710. RFT 248. Accordingly, the 300% of the SSI Federal Benefit Rate for the MI Choice Waiver program is $2,130. The Department determined the Claimant's gross income was [redacted] which is [redacted] the income limit to be found eligible for the MI Choice Waiver program. (Exhibit A, page 59) However, the Assistance Payments Worker testified the Department, in error, approved the Claimant for the MI Choice Waiver Program from May 31, 2013 through June 30, 2013. (Exhibit A, pages 33-34)

The Department next determined the Claimant's eligibility for Medicaid. The Medicaid income budget utilizes different policy and criteria than the income eligibility limit for the MI Choice Waiver program. Accordingly, it is not uncommon that a monthly Medicaid deductible amount may be significantly greater than the amount an individual was over the income limit for the MI Choice Waiver Program.

It is unclear why the Department chose to re-determine eligibility for July 2013 if the prior Medicaid case did not close until August 1, 2013, and the new Medicaid application was filed August 13, 2013. In re-determining the Claimant's Medicaid eligibility for July 2013, the Department determined the Claimant had unearned income

of and in insurance premiums. This resulted in a monthly deductible for for the month of July 2013. (Exhibit A, pages 35, 36 and 60) However, it is noted that there is no evidence that notice of the new Medicaid eligibility determination for July 2013 was sent to the Claimant or her Authorized Representative.

In determining Medicaid eligibility for August 2013, and ongoing, the Department determined the Claimant had unearned income of and in insurance premiums. This resulted in a monthly deductible for for the month of August 2013, and each ongoing month. (Exhibit A, pages 58 and 60)

The Department has not provided sufficient evidence of the income and insurance premium figures it utilized for both the MI Choice Waiver program and Medicaid deductible determinations. On the August 13, 2013, Medicaid application, the Claimant's income was listed as per month from Social Security and per month from a pension. (Exhibit A, page 17) This would only total , which is below the 300% of the SSI Federal Benefit Rate for MI Choice Waiver program eligibility of $2,130. Further, when determining Medicaid eligibility the Department utilized different income and insurance premium figures in July 2013 than in August 2013. The income figures were in July 2013 and in August 2013. The insurance premiums were in July 2013 and in August 2013. (Exhibit A, pages 36 and 58-59) While it is possible the Department obtained additional income information to support the figures utilized each month, such as a SOLQ report verifying the gross Social Security benefit amounts, this was not included in the evidence the Department submitted for this hearing. Similarly, there was insufficient evidence to support the different insurance premium figures used each month. There was also insufficient evidence to establish that notice of the change in the July 2013 Medicaid eligibility determination was issued to the Claimant or her Authorized Representative.

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 determined the Claimant was not eligible for the MI Choice Waiver Program and would have a monthly deductible to be eligible for Medicaid.

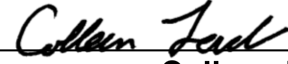
DECISION AND ORDER

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. Re-determine the Claimant's eligibility for the MI Choice Waiver program in accordance with Department policy.

2. Re-determine the Claimant's eligibility for Medicaid program retroactive to July 2013 in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/26/2013

Date Mailed: 12/26/2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

CL/pw

cc: [redacted]