

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 20143945  
Issue No.: [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: December 4, 2013  
County: Bay

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**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 4, 2013, from Lansing, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and AP Supervisor [REDACTED].

**ISSUE**

Did the Department properly deny Claimant Medicare Savings Program benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 10, 2013, Claimant submitted an application for Medical Assistance (MA) including three retroactive months.
2. On September 11, 2013, Claimant was sent a Medical Determination Verification Checklist (DHS-3503-MRT).
3. On October 1, 2013, Claimant submitted a request for hearing regarding ALMB Medicare Savings Program benefits.
4. At the time of Claimant's request, she still had a pending Medical Assistance (MA) application.
5. On October 18, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Medical Assistance (MA) application was denied for failure to provide required medical documentation. The notice also denied Medicare Savings Program benefits because she had excess assets.

## 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.

In this case Claimant was concerned about having Medicaid coverage under the Freedom to Work category. It is undisputed that Claimant is employed and has a retirement account valued above [REDACTED]. Department of Human Services Bridges Eligibility Manual (BEM) 400 Assets (2013) page 7 gives the Medicare Savings Program asset limit as [REDACTED]. Evidence in this record shows that Claimant received Retirement, Survivors, Disability Insurance (RSDI) and Medicare Part B coverage. Claimant's current RSDI payment status is "U". CDR 7-14 which lists SSA payment status codes describes "U" as "active uninsured status." This Administrative Law Judge does not know what that means. It appears Claimant was placed in "U" status April 1, 2012.

A review of Department of Human Services Bridges Administration Manual (BAM) 810 Medicare and Medicare Cost Sharing (2013), Department of Human Services Bridges Eligibility Manual (BEM) 165 Medicare Savings Programs (2013), Department of Human Services Bridges Eligibility Manual (BEM) 169 Qualified Disabled Working Individuals (2013), Department of Human Services Bridges Eligibility Manual (BEM) 174 Freedom To Work (FTW) (2013) was made in order to develop a context for Claimant's circumstances.

BEM 174 provides:

### **NON-FINANCIAL ELIGIBILITY FACTORS**

The client must be MA eligible before eligibility for FTW can be considered.

The client does not access MA through a deductible.

The client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination.

**Note:** FTW clients requiring a disability determination from MRT must be clearly indicated on the medical packet by checking the other Program box and writing "Freedom to Work" or "FTW" in the blank on the DHS-49A Medical Social Eligibility Certification form.

The client must be employed.

**Note:** A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility.

The MA eligibility factors in the following items must be met:

- BEM 220, Residence.
- BEM 221, Identity.
- BEM 223, Social Security Numbers.
- BEM 225, Citizenship/Alien Status.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits.

### **PREMIUM PAYMENTS**

A client with net earned income **exceeding** 250 percent of the FPL is required to pay a monthly premium based on earned income to keep MA coverage. Premiums will be billed and collected by the Department of Community Health (DCH) through FTW.

### **MEDICARE SAVINGS PROGRAM (MSP)**

MSP and FTW have different group composition, income and asset limits. A separate determination must be done when there is a spouse.

Reminder: A client eligible for MA under FTW is not eligible for ALMB.

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 denied Claimant Medicare Savings Program benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

/s/  
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Gary F. Heisler  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 12/16/2013

Date Mailed: 12/17/2013

**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

GFH/sw

cc:

