

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

IN THE MATTER OF:

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Reg. No.: 2013-64916
Issue No.: 2013
Case No.: ██████████
Hearing Date: October 10, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medicare Savings Program (MSP) case on the basis that her income exceeded the limit for the program?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of MSP benefits.
2. In connection with a redetermination, Claimant's eligibility to receive MSP benefits was reviewed. (Exhibit 1)
3. On August 8, 2013, the Department sent Claimant a Notice of Case Action informing her that effective September 1, 2013, her MSP case would be closing because her income exceeds the limit for the program. (Exhibit 3)
4. On August 16, 2013, Claimant submitted a hearing request disputing 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.

As a preliminary matter, Claimant submitted a hearing request on August 16, 2013 and checked the "other" box for type of program at issue. Claimant's hearing request was tied to a Notice of Case Action sent on August 8, 2013 and indicated that she was requesting a hearing to dispute the closure of her MSP case. At the hearing, there was testimony and other evidence provided regarding the closure of Claimant's Medical Assistance case based on a failure to verify. After further review of the evidence, it appears that the Department sent Claimant a Notice of Case Action informing her of the closure of her Medical Assistance case based on a failure to verify on August 20, 2013.

Because the Notice was sent after the August 16, 2013, request for hearing was submitted, there was no negative action taken by the Department during the 90 days preceding the filing of her hearing request. Therefore, the closure of Claimant's MA case effective September 1, 2013 based on a failure to verify will not be addressed in this Hearing Decision. BAM 600 (July 2013), p.4. It should be noted that if Claimant still disputes the action taken by the Department as referenced in the August 20, 2013 Notice of Case Action, she is entitled to request a hearing and have that issue resolved, provided her request is within 90 days of the date of the Notice of Case Action.

MSP

Additionally, Medicare Savings Programs (MSP) are SSI-related MA categories and the Additional Low-Income Medicare Beneficiaries (ALMB) is category of the MSP. BEM 165 (July 2013), p. 1. ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. Income eligibility exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in this item. BEM 165, p. 6. The monthly income limit for a group size of one is \$1,293.00. RFT 242 (April 2013), p. 1.

In this case, Claimant was an ongoing recipient of benefits under the ALMB MSP program. Based on the information provided on Claimant's redetermination, the Department found that due to excess income, Claimant was no longer eligible for the MSP.

At the hearing, SSI Related Medicaid Income Budget Results was reviewed. (Exhibit 5). The Department determined that Claimant had unearned income of \$1,492.00 which came from Retirement, Survivors, Disability Insurance (RSDI) benefits for herself and a pension that she receives. Claimant verified that she receives gross monthly RSDI benefits of \$1,254.00 and \$238.00 monthly from her pension. The Department also properly subtracted the \$20.00 disregard to establish that Claimant's total net income for MA purposes is \$1,472.00. BEM 530 (July 2013), pp. 1-2; BEM 541 (July 2013), p 3. Claimant confirmed that there is a \$104.90 insurance premium that is deducted from the monthly RSDI benefits. The Department applied this insurance premium deduction to Claimant's MA budget to determine that Claimant has countable income in the amount of \$1,367.00.

Because Claimant's net income of \$1,367.00 for MA purposes exceeds the monthly income limit of \$1,293.00, the Department did act in accordance with Department policy when it closed Claimant's MSP MA case due to excess income. RFT 242, p. 1.

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 Claimant's MSP case based on excess income.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 22, 2013

Date Mailed: October 22, 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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]