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

IN THE MATTER OF:

[redacted]

Reg. No.: 2014-20880
Issue No(s).: 2001
Case No.: [redacted]
Hearing Date: February 13, 2014
County: Berrien

ADMINISTRATIVE LAW JUDGE: DARRYL T. JOHNSON

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 CF R 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 F ebruary 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included t he Claimant, [redacted] Participants on behalf of the Department of Human Services (Department) included Assistanc e Payments Supervisor [redacted] and Eligibility Specialist [redacted]

ISSUE

Did the Department pr operly close Claimant's Medic al Assistance (MA) benefits and provide Claimant's daughter with Other Healthy Kids MA benefits?

FINDINGS OF FACT

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

1. Claimant was an on-going MA recipient.

2. Claimant lives in a home with his minor daughter and his daughter's mother.

3. Claimant is the sole mem ber of a limited liab ility compan y that is in the cell p hone business.

4. On November 4, 2013, Claimant depos ited a $ [redacted] refund of his 2012 tax payment into his personal check ing account at [redacted] putting his daily balance at $[redacted] on that day. See Exhibit 1 Page 9.

5. Claimant's business has an account at [redacted] which, for the month of October 2013, had daily balances ranging fr om a low of $ [redacted] to a high of $[redacted] See Exhibit 1 Page 11.

6. On December 19, 2013 the Department sent a Notice of Case Action (Exhibit 1 Pages 2-4) informing him that his MA was being closed effective February 1, 2014, and his daughter's and his daughter's mother's MA was being denied due to failure to respond to a redetermination request.

7. The Department found that the December 19, 2013 action was in error because the redetermination paperwork had been received on December 2, 2013.

8. In a Notice of Case Action dated December 30, 2013, the Department approved the daughter's MA through the Other Healthy Kids program with a $0.00 deductible, and denied MA to Claimant and the daughter's mother. MA was denied to the adults due to excess assets. See Exhibit 1 Pages 13-15.

9. On December 28, 2013, Claimant requested a hearing.

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 regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). The local office is responsible for determining a Client's eligibility, calculating their level of benefits and protecting their rights. BAM 105.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries, also called full-coverage QMB and just QMB. Program group type is QMB.

2. Specified Low-Income Medicare Beneficiaries, also called limited coverage QMB and SLMB. Program group type is SLMB.

3. Q1 Additional Low-Income Medicare Beneficiaries, also referred to as ALMB and as just Q1. Program group type is ALMB. BEM 165.

There are similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ. Income is the major determiner of category. A person who is eligible for one of these categories **cannot** choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. All eligibility factors must be met in the calendar month being tested. BEM 165.

Benefits of Medicare Savings Programs differ depending on the program. QMB Benefits pay Medicare premiums and Medicare coinsurances and Medicare deductibles. SLMB Benefits pay Medicare Part B premiums. While ALMB Benefits pay Medicare Part B premiums provided funding is available. The Department of Community Health decides whether funding is available. BEM 165. General information about Medicare and information about the Buy-In program is available in BAM 180.

The department makes separate Medicare Savings Programs determinations for the following clients if they are entitled to Medicare Part A:

- Medicare Savings Programs-only.
- Group 2 MA (FIP-related and SSI-related).
- Extended Care (BEM 164).
- Healthy Kids.
- TMA-Plus.

Automatic QMB persons receiving MA under the following categories and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. The QMB coverage date begins the calendar month after the processing month. The processing month is the month during which you make the eligibility determination. QMB is not available for past months or the processing month.

SLMB coverage is available for retro MA months and later months. Note: SLMB is only available for months when income exceeds the QMB limit. A person cannot choose SLMB in place of QMB for coverage to start sooner (example, to get retro MA).

ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. ALMB is not approved for any month that is in a previous calendar year, even if application was made in the previous calendar year.

If person wishes to know whether MA will pay their Medicare premiums before enrolling in Medicare, that person may contact the Department before reaching age 65 (example,

during the three months before the person's 65th birthday). The department may advise persons listed under "Automatic QMB" above that MA will pay their Medicare premium. The department will do a determination of eligibility for all other persons. In doing this determination the department will:

- Explain the nonfinancial eligibility factors. Assume they will be met.
- Use current information to determine financial eligibility. Do not ask for verification.
- Explain that changes may affect the actual determination of eligibility.

The department must discuss asset policy thoroughly with the Client if the person's assets exceed the limit. Nonfinancial eligibility factors include that the person must be entitled to Medicare Part A. That means something different for QMB than it does for SLMB and ALMB.

For QMB, entitled to Medicare Part A means the person meets condition 1, 2 or 3:

1. Is receiving Medicare Part A with no premium being charged.
2. Refused premium-free Medicare Part A.
3. Is eligible for, or receiving, Premium HI (Hospital Insurance). Premium HI is what the Social Security Administration calls Medicare.

For SLMB and ALMB, entitled to Medicare Part A means the person is receiving Medicare Part A with no premium being charged.

In this case, Claimant had a balance of $ [redacted] in his personal checking account within 30 days of his redetermination. Per BEM 400, p. 7, the MA limit is $2,000 for an individual, and $3,000 for a couple. Without even considering the value of the business account, the Department correctly concluded that the Claimant's assets exceeded the allowable limit.

The Claimant provided a copy of a statement (Exhibit 1 Page 12) indicating he had adjusted gross income in 2012 of $[redacted] and that he received a tax refund of $[redacted] for 2012. (The deposit was actually $[redacted] Effectively, Claimant's income for 2012 was $[redacted] His child's mother also receives $[redacted] per month in Supplemental Security Income. Claimant's monthly income, excluding the tax refund, is $[redacted] per month. Combined with the mother's income, the group has monthly income of $[redacted] Looking to Column 1 in RFT 246, a group of 3 has a monthly income limit of $[redacted] for the Other Healthy Kids program.

Insufficient information is available to determine whether Claimant's income is being accurately reported. His business is a sole-member limited liability company, meaning that all business decisions are within his control. He alone determines how much of a salary he pays himself, and how other business income is distributed. He testified that he believes he would be "embezzling from himself" if he draws money out of the business. The bank statement he submitted is evidence that his business had income of more than $30,000 in one month. As stated above, MA is available to people with a demonstrated need. In the instant case, the Department needs to make further inquiry

to determine whether Claimant and his group meet the income limits applicable for his daughter to receive Other Health Kids benefits.

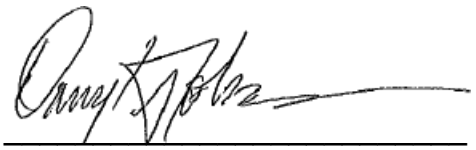
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's MA. It is further found that the Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant's child was eligible for Other Healthy Kids MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's MA, and **REVERSED IN PART** with respect to Claimant's daughter's MA.

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. Redetermine Claimant's daughter's MA eligibility, for the month of January 2014, based upon all income which the group was receiving at the time of the Redetermination. Once the Department has made a determination of eligibility or lack thereof for MA benefits for the child, the Department shall notify Claimant in writing of the determination.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 14, 2014

Date Mailed: February 14, 2014

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 mo tion where the final decis ion 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 disc overed evidence that existed at the time of the or iginal 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 clai mant 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

DTJ/las

cc: [redacted]