

**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.: 2014-26518
Issue No(s): 2001
Case No.: ██████████
Hearing Date: April 3, 2014
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 April 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████
████████████████████ Participants on behalf of the Department of Human Services (Department or DHS) included ██████████
████████████████████

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and Medicare Savings Program (MSP) cases effective March 1, 2014, ongoing?

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 MA and MSP benefits. See Exhibit 1.
2. On December 16, 2013, the Department sent Claimant a Redetermination, which was due back by January 2, 2014. See Exhibit 1.
3. On January 6, 2014, Claimant submitted a Redetermination on which she indicated both earned/unearned income and balances in her savings/checking account. See Exhibit 1.

4. On January 21 and 22, 2014, Claimant submitted verification of her checking and savings accounts. See Exhibit 1.
5. On January 22, 2014, the Department sent Claimant a Notice of Case Action notifying her that her Disabled Adult Child (DAC) - MA coverage would close effective March 1, 2014, ongoing, due to excess assets. See Exhibit 1.
6. The January 22, 2014, Notice of Case Action also notified Claimant that her MSP coverage would close effective March 1, 2014, ongoing, due to excess income. See Exhibit 1.
7. On January 31, 2014, Claimant filed a hearing request, protesting her MA/MSP case closures. See Exhibit 1.

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.

MA Benefits

In this case, Claimant was an ongoing recipient of DAC – MA coverage. See Exhibit 1. On December 16, 2013, the Department sent Claimant a Redetermination, which was due back by January 2, 2014. See Exhibit 1. On January 6, 2014, Claimant submitted a Redetermination on which she indicated balances in her savings/checking account. See Exhibit 1. Specifically, Claimant indicated \$3,149 in her joint savings account with her brother and also indicated \$256 in her personal checking account. See Exhibit 1. On January 21 and 22, 2014, Claimant submitted verification of her checking and savings accounts. See Exhibit 1. In regards to the savings account, the statement indicated a balance of \$4,261.15 for the period of October 1, 2013, to December 31, 2013. See Exhibit 1. Thus, on January 22, 2014, the Department sent Claimant a Notice of Case Action notifying her that her Disabled Adult Child (DAC) - MA coverage would close effective March 1, 2014, ongoing, due to excess assets. See Exhibit 1.

At the hearing, Claimant and/or the AHR did not dispute the balance in the accounts at the time of submitting the Redetermination. Moreover, Claimant's AHR testified that approximately two days before the hearing, the account balance went below the MA asset threshold due to home improvements. Claimant provided an updated balance of the savings account, which indicated an available balance of \$1,257.73 as of April 3,

2014. See Exhibit A. It should be noted that the Department presented an MA assets budget. See Exhibit 1.

DAC is an SSI-related Group 1 MA category. BEM 158 (October 2013), p. 1. MA is available to a person receiving disabled adult children's (DAC) (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits or the list of requirements as shown in BEM 158. See BEM 158, p. 1. Countable assets cannot exceed the asset limit in BEM 400. BEM 158, p. 2.

All types of assets are considered for SSI-related MA categories. BEM 400 (December 2013), p. 2. Asset eligibility is required for LIF, G2U, G2C, RMA, AMP and SSI-related MA categories. BEM 400, p. 5.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 5. For all other SSI-related MA categories, the asset limit is \$2,000 for an asset group of one or \$3,000 for an asset group of two. BEM 400, p. 7. It is not disputed that this case involves the \$2,000 asset group of one.

For SSI-Related MA cases, checking and drafts accounts, savings and share accounts, money market accounts, and LTC patient trust fund and all other money held by the facility for the patient are types of cash assets. BEM 400, p. 14.

Based on the above information and evidence, the Department properly closed Claimant's DAC – MA coverage effective March 1, 2014, ongoing, in accordance with policy. A review of just Claimant's savings account for the statement period of October 1, 2013, to December 31, 2013, indicated that the account balance was \$4,261.15. See Exhibit 1. Claimant submitted this documentation to the Department on January 21 and 22, 2014. See Exhibit 1. At the time of Redetermination, Claimant's assets exceeded the \$2,000 asset limit. Therefore, the evidence presented that Claimant exceeded the \$2,000 asset limit and it was proper for the Department to close her MA benefits effective March 1, 2014, ongoing. BEM 400, p. 6.

It should be noted that if the client is MA eligible, she might be eligible for Freedom to Work (FTW) coverage. See BEM 174 (July 2013), p. 1. FTW is available to a client with disabilities aged 16 through 64 who has earned income. BEM 174, p. 1. However, this decision does not conclude that Claimant is eligible for such programs. Claimant must apply to determine program eligibility.

MSP Benefits

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. BEM 105 (January 2014), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1. The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. BEM 105, p. 1. The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (October 2013), p. 1. The three Medicare

Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Income is the major determiner of which category an individual falls under. BEM 165, p. 1. Effective April 1, 2013, to be eligible for full coverage AD-Care/QMB, income cannot exceed \$958.00 for a fiscal group of one or \$1,293.00 for a fiscal group of two; for limited coverage QMB/SLMB, \$959.00 to \$1,149.00 (fiscal group of one), and \$1,294.00 to \$1,551.00 (fiscal group of two); and for ALMB, \$1,152.00 to \$1,293.00 (fiscal group of one), and \$1,552.00 to \$1,745.00 (fiscal group of 2). RFT 242 (December 2013), pp. 1-2.

Eligibility under the QMB exists when the net income does not exceed 100% of poverty. BEM 165, p. 1. Eligibility under the SLMB program exists when the net income is over 100% of poverty, but not over 120% of poverty. BEM 165, p. 1. Eligibility under the ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. BEM 165, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1. Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

In this case, Claimant was an ongoing recipient of QMB – MSP coverage. See Exhibit 1. On January 6, 2014, Claimant submitted a Redetermination, in which she indicated both earned/unearned income. See Exhibit 1. Specifically, the Redetermination indicated a weekly gross earned income of \$165 and a monthly gross unearned income amount of \$1,089. See Exhibit 1. Additionally, the Department testified that Claimant submitted her pay stubs with the Redetermination. On January 22, 2014, the Notice of Case Action also notified Claimant that her MSP coverage would close effective March 1, 2014, ongoing, due to excess income. See Exhibit 1.

At the hearing, the Department presented a QMB budget. See Exhibit 1. First, the budget indicated a gross unearned income of \$1,103. See Exhibit 1. This consisted of Claimant's Retirement, Survivors and Disability Insurance (RSDI) income. A review of the SOLQ indicated that, at the time of Redetermination, this was Claimant's gross unearned income. See Exhibit 1. Then, the Department properly subtracted the \$20 disregard to establish Claimant's total net income unearned income of \$1,083. See BEM 541 (January 2014), p. 3, and Exhibit 1.

The Department also calculated Claimant's earned income to be \$765. The Department based this amount on the submitted pay stubs at the time of Redetermination: (i) pay date of 12/6/2013 in the amount of \$305.33; (ii) pay date of 12/13/2013 in the amount of \$170.78; pay date of 12/20/2013 in the amount of \$191.48;

and (iv) pay date of 12/27/2013 in the amount of \$212.18. Claimant did not dispute these amounts. The total of the above four pay stubs is \$879.77.

The Department determines countable income according to the SSI-related MA policies in BEM 500 and 530. BEM 165, p. 7. BEM 530 states that for future month non-averaged income, the Department uses the amounts that will be, or are likely to be, received/available in the future month. BEM 530 (January 2014), p. 3. Exceptions include not budgeting an extra check (example, fifth check for person paid weekly). BEM 530, p. 3. If prospecting income based on bi-weekly or twice a month payments, multiply by 2. BEM 530, p. 3. If prospecting income based on weekly pay, multiply by 4. BEM 530, p. 3. Finally, for future month averaged income, the Department uses the monthly average amount if this month is one of the months used to compute the average. BEM 530, p. 3.

Applying the above policy, converting the above four pay stubs results in a standard monthly amount of \$879. BEM 530, p. 3. However, this amount is greater than the \$765 as shown in the budget. See Exhibit 1. A review of the calculation appears to indicate that the Department excluded the pay stub dated December 6, 2013, in the amount of \$305. Thus, applying the remaining three pay stubs results in the average amount of \$765. See BEM 530, p. 3.

At the hearing, Claimant and/or the AHR did not dispute the \$765 gross earned income calculated for December 2013. However, the AHR testified that Claimant was earning additional income at the time due to the holidays. Moreover, the AHR testified that Claimant works fewer hours subsequent to the holidays. Moreover, the AHR testified that Claimant earned \$10.35 an hour and she worked 20 hours per week in December 2013.

Based on the foregoing information and evidence, the Department properly calculated Claimant's earned income. First, Claimant and/or the AHR did not dispute the \$765 earned income calculation in December 2013. Second, a review of the evidence indicated that it most likely calculated the earned income based on the three submitted pay stubs. It is harmless error by the Department as to not specifically mentioning if all four pay stubs were included in the calculation because the Department did not use the higher earned income amount in the budget and only applied the lesser amount. As such, the Department properly calculated the earned income at the time of Redetermination.

Then, the Department properly disregarded the \$65 plus 1/2 of the fiscal group's remaining earnings from the earned income. BEM 541, p. 3. RFT 295 indicates that the \$65 plus 1/2 disregard amount for a claimant's earned income amount of \$765 is \$415. RFT 295 (December 2013), p. 23. Thus, this results in a net earned income of \$350 (\$765 earned income minus \$415). See Exhibit 1. The total net income is \$1,433 (\$1,083 net unearned income plus \$350 net earned income). See Exhibit 1.

Finally, the Department properly subtracted the \$16 RSDI cost-of-living increase Claimant received starting in January 2014. Federal law requires that for January, February and March, the RSDI cost-of-living increase (COLA) received starting in January is to be disregarded for fiscal group members, and the income limits for the preceding December are to be used. BEM 165, p. 7. For December 2013, the SOLQ indicated that Claimant received \$1,087 in RSDI for the preceding December. See Exhibit 1. This is a \$16 decrease from Claimant's \$1,103 that she began to receive in January 2014. See Exhibit 1. It should be noted that Claimant presented a letter from the Social Security Administration (SSA) dated March 31, 2014, which indicated her payment will be reduced. See Exhibit A. However, this occurred after Claimant's submitted the Redetermination and the Department properly relied on the RSDI income Claimant received at the time of processing her MSP budget.

Applying the COLA exclusion amount results in a countable income of \$1,417. See Exhibit 1. For MSP benefits, income eligibility exists when net income is within the limits in RFT 242 or 247. BEM 165, p. 7. Claimant's net income for a fiscal group size of one exceeds the limits for all three MSP categories. See RFT 242, pp. 1-2. Because Claimant's income exceeded the income eligibility for all three MSP categories, the Department properly closed her MSP benefits effective March 1, 2014, ongoing, in accordance with Department policy. BEM 165, p. 7, and RFT 242, pp. 1-2. Claimant can reapply for MSP benefits.

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 acted in accordance with Department policy when it properly closed Claimant's DAC – MA benefits and MSP benefits effective March 1, 2014, ongoing.

Accordingly, the Department's MA and MSP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 14, 2014

Date Mailed: April 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 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

EJF/pf

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