

**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.: 14-005598
Issue No.: 2001
Case No.: ██████████
Hearing Date: September 24, 2014
County: WAYNE-DISTRICT 82
(ADULT MEDICAL)

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 September 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████, and Claimant's personal caregiver/witness, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Manager, and ██████████ Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) and Medicare Savings Program (MSP) application effective April 1, 2014?

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 April 15, 2014, Claimant applied for MA and MSP benefits.
2. On April 15, 2014, Claimant submitted a Notice of Annuity Adjustment from the U.S. Office of Personnel Management (OPM). See Exhibit 1, p. 2. The annuity notice indicated that Claimant received a gross monthly annuity amount of \$326 as of June 1, 2013. See Exhibit 1, p. 1.

3. On April 30, 2014, the Department sent Claimant a Verification Checklist (VCL) and it was due back by May 12, 2014. See Exhibit 1, pp. 3-4. The VCL requested verification of Claimant's current annuity income for April 2014, four life insurance policies, pension/retirement, and real property. See Exhibit 1, pp. 3-4.
4. On an unspecified date, the Department extended Claimant's VCL due date.
5. On May 21, 2014, the Department sent Claimant's second VCL and it was due back by June 2, 2014. See Exhibit 1, pp. 5-6. The VCL requested verification of Claimant's life insurance policies, household expenses, verification of home, state equalized value, and April 2014 OPM pension (annuity). See Exhibit 1, pp. 5-6.
6. On May 30, 2014, Claimant submitted her 2013 (form 1099) annual statement of annuity paid from OPM. See Exhibit 1, p. 1.
7. On an unspecified date, the Department received verification of the life insurance policies; however, the Department alleged that Claimant failed to receive verification of her current annuity income for April 2014 (OPM).
8. On June 9, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that her MSP and MA applications were denied effective April 1, 2014. See Exhibit 1, pp. 7-10.
9. On June 23, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 12-14.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MSP benefits

Medicaid coverage includes Medicare cost-sharing benefits, meaning it will pay for Medicare Part B premiums or Part A and B premiums, coinsurances, and deductibles for certain Medicaid recipients. BAM 810 (April 2014), p. 1.

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 Medicare Savings Programs are SSI-related MA Categories. BEM 165 (April 2014), 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, 2014, to be eligible for full coverage AD-Care/QMB, income cannot exceed \$993.00 for a fiscal group of one or \$1,331.00 for a fiscal group of two; for limited coverage QMB/SLMB, \$994.00 to \$1,187.00 (fiscal group of one), and \$1,332.00 to \$1,593.00 (fiscal group of two); and for ALMB \$1,188.00 to \$1,333.00 (fiscal group of one), and \$1,594.00 to \$1,790.00 (fiscal group of 2). RFT 242 (April 2014), pp. 1-2.

Eligibility under the QMB exists when the net income does not exceed 100% of poverty. BEM 165, p. 1. SLMB program exists when the net income is over 100% of poverty, but not over 120% of poverty. BEM 165, p. 1. 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.

In this case, on April 15, 2014, Claimant applied for MSP benefits. On June 9, 2014, the Department sent Claimant a determination notice notifying Claimant that her MSP application was denied effective April 1, 2014. See Exhibit 1, pp. 7-10. Specifically, the determination notice did not indicate MSP benefits were denied. Instead, the denial notice only provided a general statement that she was not eligible for health care coverage. However, the Department testified that Claimant was denied MSP benefits due to her income exceeding the limits for the program. See Exhibit 1, p. 7. Moreover, it also appeared that the MSP benefits were denied based on failure to comply with the verification requirements. See Exhibit 1, p. 8. Nevertheless, this hearing decision will address whether the Department properly denied Claimant’s MSP application based on excess income.

At the hearing, the Department failed to present budgets and/or income verifications (other than the OPM annuity) to show that Claimant’s income exceeded the MSP limits as listed in RFT 242. See RFT 242, pp. 1-2. The Department testified that Claimant

receives \$1,437 in Retirement, Survivors, and Disability Insurance (RSDI) income plus additional pensions. Thus, the Department argued that Claimant's income would exceed the MSP limits. Claimant and/or her witness testified that her RSDI income and pension (OPM) have deductions applied to them, which would result in a lower net income.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (March 2014), p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's MSP application effective April 1, 2014. BAM 600, pp. 36-39. The Department failed to present budgets and/or income verifications (other than the OPM annuity) to show that Claimant's income exceeded the MSP limits. Claimant's testimony indicated that her RSDI income and pension have deductions applied to them, which would result in a lower net income. These deductions could possibly result in eligibility for one of the three MSP programs. However, this hearing decision does find that Claimant is eligible for the MSP programs. Instead, the Department will re-register Claimant's MSP application and determine her eligibility in accordance with Department policy.

MA benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (April 2014), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to three times. BAM 130, p. 7.

The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7. Only adequate notice is required for an application denial. BAM 130, p. 7.

In this case, on April 15, 2014, Claimant applied for MA benefits. On April 15, 2014, Claimant submitted a Notice of Annuity Adjustment from OPM. See Exhibit 1, p. 2. The annuity notice indicated that Claimant received a gross monthly annuity amount of \$326 as of June 1, 2013. See Exhibit 1, p. 1. Moreover, the annuity notice indicated that after applicable deductions, Claimant's net income was \$8.95. See Exhibit 1, p. 2.

On April 30, 2014, the Department sent Claimant a VCL and it was due back by May 12, 2014. See Exhibit 1, pp. 3-4. The VCL requested verification of Claimant's current annuity income for April 2014, four life insurance policies, pension/retirement, and real property. See Exhibit 1, pp. 3-4.

On an unspecified date, the Department extended Claimant's VCL due date. Claimant's witness testified that she requested an extension; however, the Department appeared to extend Claimant's VCL due date based on not receiving the requested documents.

On May 21, 2014, the Department sent Claimant's second VCL and it was due back by June 2, 2014. See Exhibit 1, pp. 5-6. The VCL requested verification of Claimant's life insurance policies, household expenses, verification of home, state equalized value, and April 2014 OPM pension (annuity). See Exhibit 1, pp. 5-6.

On May 30, 2014, Claimant submitted her 2013 (form 1099) annual statement of annuity paid from OPM. See Exhibit 1, p. 1. On an unspecified date, the Department received verification of the life insurance policies; however, the Department alleged that Claimant failed to receive verification of her current annuity income for April 2014 (OPM).

On June 9, 2014, the Department sent Claimant a determination notice notifying Claimant that her MA application was denied effective April 1, 2014, based on a failure to provide verification of the life insurance. See Exhibit 1, pp. 7-8.

Ultimately, the Department testified that Claimant's MA application was denied based on not receiving her current annuity income verification from OPM.

Claimant's witness testified that they provided the annuities they had. Moreover, Claimant testified that the annuity notice regarding her monthly payment as of June 1, 2013, accurately reflected her current amount being received. Claimant testified that her current annuity income is possibly a dollar/two difference. However, Claimant testified that she currently receives a monthly annuity check in the amount of \$8.00.

Payments an individual receives from an annuity are unearned income. BEM 503 (January 2014), p. 4. The Department counts annuity payments as the individual's unearned income. BEM 503, p. 4. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503, p. 27. The Department counts the gross benefit as unearned income. BEM 503, p. 27.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. A document is a written form of verification. BAM 130, p. 1. It may include a photo-copy, facsimile or email copy if the source is identifiable. BAM 130, p. 1. Nonpermanent documents must be current and examples include: driver's license, pay stub, rent receipt, utility bill, DHS-49, Medical Examination Report. BAM 130, p. 2.

Current income documents means it must correspond to the period used to determine eligibility or benefit amount. BAM 130, p. 2. Other nonpermanent documents are generally considered current if dated within 60 days before your eligibility determination. BAM 130, p. 2. Older documents may be used if available information indicates the document remains current and there have been no changes in circumstances. BAM 130, p. 2.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA application effective April 1, 2014. The Department presented a reasonable argument that Claimant's annuity verifications provided were not current documents. In fact, the annuity verifications provided were not dated within 60 days before her eligibility determination. See Exhibit 1, pp. 1-2 and BAM 130, p. 2. However, BAM 130 states that older documents may be used if available information indicates the document remains current and there have been no changes in circumstances. BAM 130, p. 2. The evidence established that Claimant's annuity notice provided on April 15, 2014, properly showed that her annuity remained the same and there had been no changes in circumstances. Moreover, Claimant credibly testified that she currently receives \$8 a month from her annuity, which is the same amount reflected in the annuity notice. See Exhibit 1, p. 2. As such, Claimant provided proper verification of her annuity (older document) before the VCL due date. See BAM 130, p. 2. The Department will re-register Claimant's MA application and determine her MA eligibility in accordance with Department policy. BAM 130, pp. 1-7.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's MSP application effective April 1, 2014; and (ii) did not act in accordance with Department policy when it improperly denied Claimant's MA application effective April 1, 2014.

Accordingly, the Department's MSP and MA 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. Reregister Claimant's MSP and MA application dated April 15, 2014;
2. Begin reprocessing the application/recalculating the MSP and MA budgets for April 1, 2014, in accordance with Department policy;
3. Issue supplements to Claimant for any MSP and MA benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant in writing of its MSP and MA decision in accordance with Department policy.



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

Date Signed: **10/2/2014**

Date Mailed: **10/2/2014**

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NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]