

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014696
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: January 08, 2015
County: BENZIE

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on January 8, 2015, from Beulah, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED], mother and Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA)?

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 a Medicaid (MA-G2S) beneficiary with a monthly spend down and received Medicare Savings Program (MSP) benefits.
2. Claimant timely completed and returned a New Hire Client Notice with copies of paychecks to verify her income.
3. The Department re-calculated the MA budgets with the new income information and determined Claimant's monthly MA-G2S spend down would increase and the MSP benefit would close.
4. On September 18, 2014, a Health Care Coverage Determination Notice was issued to Claimant stating the MSP benefit would stop because Claimant's income exceeds the limit for this program.
5. On October 3, 2014, Claimant filed a hearing request contesting the Department's action.

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.

A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. BAM 220, 7-1-2014, p. 2.

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, 1-1-2014, pp. 2.

Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income. BEM 500 7-1-2014.

For Social Security Administration (SSA) issued Retirement Survivors and Disability Insurance (RSDI), the Department counts the gross benefit amount as unearned income. BEM 503, 7-1-2014, p. 28.

For SSA issued Supplemental Security Income (SSI), the Department excludes the amount of current SSA-issued SSI as income for Medicaid. BEM 503, pp. 31-32.

The Department counts gross wages except as explained in this item or BEM 503 for: Earned Income Tax Credit (EITC), Flexible Benefits; STRIKERS' COUNTABLE EARNINGS; STUDENT EARNINGS DISREGARD; and Census Workers. BEM 501, 7-1-2014, p. 7.

For a deductible client, the Department is to do a future month budget at redetermination and when a change occurs that may affect deductible status. The Department is to use only available income. Available means income which is received or can reasonably be anticipated. The Department is to use amounts actually received/available in the past month. The Department is to use amounts already

received/available in the processing month. In addition, estimate amounts likely to be received/available during the remainder of the month. The Department is to use amounts that will be, or are likely to be, received/available in the future month. If prospecting income based on bi-weekly or twice a month payments, multiply by 2. If prospecting income based on weekly pay, multiply by 4. BEM 530, 1-1-2014, pp. 1- 3.

When prospecting income, if a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs. BEM 530 p. 4.

The Eligibility Specialist testified that when Claimant's MA budgets were re-calculated with the new income information, it was determined that Claimant's monthly spend down would increase for the MA-G2S. It was also determined that Claimant's MSP benefit would close due to income in excess of program limits. The Eligibility Specialist testified the Department can only use the current verified income.

The [REDACTED], Health Care Coverage Determination Notice stated the MSP benefit would close due to income in excess of the program limit. This ALJ understands some of the other information is automatically included on the Health Care Coverage Determination Notice and does not necessarily pertain to the actual action in this case. For example, the included the income chart of annual income by household size would apply to Health Michigan Plan (HMP) MA benefits. However, this information being included also makes it for difficult for individuals to understand the actions taken by the Department when they receive these case action notices.

There is no evidence that the Department issued notice to Claimant for the increase in her monthly spend-down for the MA-G2S. The spend-down for the MA-G2S case action was not included in the [REDACTED], Health Care Coverage Determination Notice. There was no evidence of any other notice issued to Claimant stating what the new monthly spend-down amount was for the MA-G2S.

It is also noted that Claimant reported her new employment would be ending on [REDACTED], on the completed the New Hire Client Notice. Thus, the income from this temporary employment would not be expected to be available for future months after the anticipated end of employment in October 2014.

Additionally, it appears that the MA budgets were not correct. Claimant has provided documentation from SSA that \$ [REDACTED] is being deducted each month from the SSA issued benefit for an overpayment. Pursuant to BAM 500, amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. Rather, this amount would be excluded from the countable income. It is also noted that the budgeted unearned income appears be the sum of two different SSA issued monthly benefit amounts (\$ [REDACTED] plus \$ [REDACTED] totaling \$ [REDACTED]. It is unusual that an individual would receive two monthly SSA benefit amounts. The Department may wish to verify that Claimant is actually receiving both SSA issued benefit amounts each month.

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 determined Claimant's eligibility for MA.

DECISION AND ORDER

Accordingly, the Department's 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. Re-determine Claimant's eligibility for MA programs retroactive to the October 1, 2014, effective date in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/02/2015**

Date Mailed: **3/02/2015**

CL/hj

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 48909-8139

cc:

