

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017151
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 26, 2015
County: ST. CLAIR

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 February 26, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included General Services Program Manager, [REDACTED].

ISSUE

Did the Department properly close the Claimant's Medicare Savings Program (MSP) case, due to excess income?

PROCEDURAL HISTORY

This matter was originally scheduled as a telephone hearing for February 11, 2015. February 9, 2015, the Michigan Administrative Hearing System received the Claimant's request for an in person hearing. On February 10, 2015, Administrative Law Judge C. [REDACTED] issued and Adjournment Order for In-Person Hearing in the matter was rescheduled for February 26, 2015. The hearing commenced as rescheduled.

FINDINGS OF FACT

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

1. The Claimant received MSP benefits.
2. There were three different DHS-1606, Health Care Coverage Determination Notices in evidence indicating that the Claimant's case would close on September 1, on November 1, and on January 1, 2015. The Department Hearing Summary indicates that the action effective date was December 3, 2014. As such, it is unclear on which exact date the Department closed Claimant's case.

3. On September 29, 2014, October 3, 2014, and November 17, 2014, the Department sent the Claimant its decision.
4. On November 17, 2014, the Claimant filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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.

In this case, three notices were sent to the Claimant because the first two notices sent did not impart to the Claimant the accurate reason why her case was closed. The Department Manager present at the hearing was not the worker who took the action in the Claimant's case and did therefore not have any personal knowledge of what happened in the Claimant's case.

The Claimant had a redetermination in September 2014. The incomplete redetermination form is in evidence but the completed form is not. Therefore, there is no evidence of what the Claimant reported as income to the Department. The Department's manager testified that the Claimant was determined to have excess income based on what was reported to the Department from the SSA on the SOLQ. The Claimant testified that the Social Security Administration (SSA) reduced her income for the months of November and December 2014 and that she submitted evidence of this to the Department on November 1, 2014. Such evidence is in the record and is supportive of the Claimant's testimony.

The Department manager was asked if the Claimant was given an opportunity to resolve the discrepancy between what SSA reported as income on the SOLQ and what the Claimant's income was as documented by the SSA to the Claimant in Department's exhibit D-G. The Department's manager could not answer that question. The Claimant testified that she had no opportunity to resolve the discrepancy. The Claimant testified that she has made several telephone calls to the Department and to the SSA, but that one organization simply referred her back to the other.

Additionally, Bridges Administrative Manual (BAM) 130 (2014), p. 8, provides that before the Department determines eligibility, the Department is to give the Client a reasonable opportunity to resolve any discrepancy between the Claimant's statements and information from another source. In this case, there is a discrepancy between what the SSA had reported to the Department and to the Claimant. As discussed during the

hearing, this would be a situation where the Claimant would require assistance from the Department personnel. Indeed, to properly determine and verify the Claimant's exact income a collateral contact with the SSA may be necessary. Furthermore, the Department does not meet its burden of establishing that it was acting in accordance with the Department policy when taking action to close the Claimant's case. This is specifically because the Administrative Law Judge cannot make a finding as to exactly when it was that the Claimant's case closed because the evidence contains four different dates of when that may have happened and the worker who took action in this case was not present at the hearing.

The Administrative Law Judge, based upon 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 took action to close the Claimant's MSP case.

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. Redetermine the Claimant's eligibility for MSP benefits back to the date her case actually closed, and
2. Issue the Claimant any supplements she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

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

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

SEH/sw

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:

