

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-32802
Issue No(s): 2001, 3000
Case No.: [REDACTED]
Hearing Date: June 10, 2014
County: Lapeer

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 June 10, 2014, from Lapeer, Michigan. Participants on behalf of Claimant included [REDACTED], Authorized Hearing Representative, and [REDACTED], guardian/mother. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist and Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's Medical Assistance (MA) eligibility for Medicaid and the Medicare Savings Program (MSP)?

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 applied for MA on March 10, 2014.
2. On March 13, 2014, a Notice of Case Action was issued to Claimant stating the Medicare Savings Program was denied because Claimant's income exceeded the limit for this program.
3. Claimant was initially approved for Medicaid with a monthly deductible, or spend down.
4. On March 21, 2014, a Benefit Notice was issued to Claimant stating his application for Medicaid was approved.

5. On March 17, 2014, Claimant filed a request for hearing contesting the Department's MA determinations¹.
6. The Department subsequently received information that prompted a request for central office Disabled Adult Child (DAC) determination and Claimant was approved.
7. Claimant's Medicaid has been approved as a DAC for March 2014 and ongoing with no monthly deductible, or spend down, and the MSP was approved as a Qualified Medicare Beneficiary (QMB) for April 2014 and ongoing.

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.

Older MA eligibility determinations

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department

¹ On the March 17, 2014 request for hearing, the Claimant also marked that an action regarding the Food Assistance Program (FAP) was contested. It was confirmed that the issue(s) regarding the FAP case had been resolved prior to the June 10, 2014 hearing date. Claimant's Authorized Hearing Representative withdrew the FAP portion of the appeal on the record. Accordingly the FAP portion of this case was DISMISSED.

of Human Services Bridges Administrative Manual (BAM) 600 (3-1-2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days.

In part, Claimant's contests prior MA determinations. Claimant's representative notes that the Department had a duty to identify Claimant as a Disabled Adult Child (DAC) under BEM 158, 10-1-2013, p.3. Claimant's Guardian testified that in the past she has tried to work out issues regarding Claimant's MA eligibility with the Department worker, rather than file a hearing request. Claimant's Guardian has been able to successfully resolve some MA issues this way.

An August 5, 2013 Notice of Case Action was issued stating that the MSP benefit closed effective September 1, 2013. Claimant's Guardian testified that she did not file a hearing request at that time to contest that MA determination.

While the Department has a duty to correctly determine MA eligibility and to identify DACs, the timeframe to appeal a determination is still 90 days from the date of the written notice of the case action. No authority has been found that allows for an exception to this timeframe related to the Department identifying an individual as a DAC.

There is no jurisdiction to review prior MA determinations when the department has issued written notice of the action and no appeal was filed within 90 days. This appeal is based on the March 17, 2014 hearing request. Therefore, there is no jurisdiction to review the August 5, 2013, MA determination to close the MSP benefit, or other older MA determinations, as part of this appeal. Further, there was no evidence of any claims for assistance that were not acted upon with reasonable promptness. Accordingly, this ALJ cannot consider the request to review Claimants' Medicaid and MSP eligibility retroactive to at least September 2013. There is only jurisdiction to review the Department's determinations regarding the March 10, 2014, MA application.

March 10, 2014 MA application eligibility determinations

For Medicaid, income eligibility exists for the calendar month tested when there is no excess income, or when allowable medical expenses are equal, or exceed the excess income. BEM 545 (7-1-2013) p. 1. Additional Medicaid income budgeting eligibility and patient pay amount policies can be found in BEM 530, 541, 544, 545 and 546, as well as, RFT 200 and 240-242.

Medicare Savings Programs are SSI-related MA categories. Three categories make up the Medicare Savings Programs: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Q1 Additional Low-Income Medicare Beneficiaries (ALMB or Q1). BEM 165, 10-1-2013, p. 1.

Income is the major determiner of category.

QMB	Net income cannot exceed 100% of poverty
SLMB	Net income is over 100% of poverty, but not over 120% of poverty.
ALMB (Q1)	Net income is over 120% of poverty, but not over 135% of poverty.

BEM 165, p. 1

Additionally, QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. BEM 165, p. 3.

The Eligibility Specialist testified that the income limit is higher for DACs.

BEM 158 addresses identifying DACs. An individual may be receiving DAC RSDI benefits if one of the following descriptions applies:

- He has been identified as a DAC by central office or an SSI letter (see Exhibit II) and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.)
- He is more than 19 years 2 months old and his social security claim number suffix contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.)
- He is age 18 or older, not a full-time student in elementary or secondary school and his social security claim number contains the letter C. The C may be followed by another letter or number (CA, CB, C1, etc.).

BEM 158, 10-1-2013, p.3

When the March 10, 2014, MA application was initially processed, the Department indicated they were not aware that Claimant may have potentially qualified as a DAC. Accordingly, the initial MA eligibility determinations were made without consideration of the higher DAC income limits.

Later in March 2014, when the Department received a copy of an SSI letter, a request for a central office DAC determination was made and Claimant was approved. The Eligibility Specialist testified that Claimant's Medicaid has been approved as a DAC for March 2014 and ongoing with no monthly deductible, or spend down, and the MSP was approved as a QMB for April 2014 and ongoing. Thus the Department has already re-determined Claimant's MA eligibility for the March 10, 2014 MA application with consideration of his DAC status.

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 determined Claimant's MA eligibility for Medicaid and the MSP.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: January 26, 2015

Date Mailed: January 26, 2015

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

201432802/CL

CL/hj

cc:

