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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-014066; 14-015503
Issue No.: 2001
Case No.: [redacted]
Hearing Date: January 26, 2015
County: WAYNE-DISTRICT 55 (HAMTRAMCK)

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 January 26, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [redacted] Participants on behalf of the Department of Human Services (Department or DHS) included [redacted], Eligibility Specialist.

ISSUE

Did the Department properly provide Claimant with Medical Assistance (MA) coverage she is eligible to receive from August 1, 2014, ongoing, retroactive to May 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 August 7, 2014, Claimant applied for MA benefits, retroactive to May 2014. See Exhibit 1, pp. 7-13.

2. Claimant resides with her ex-husband, she is a tax filer for a group size of one, receives Retirement, Survivors and Disability Insurance (RSDI) and pension income, she is 63-years-old, and her annual income is approximately $11,532. See Exhibit 1, pp. 7-3 and Exhibit 2, p. 5.

3. On an unspecified date, the Department processed Claimant's application including both her and her ex-husband's income. See Exhibit 1, p. 1. The Department budgeted the ex-husband's income as he was included on a previous

case. See Exhibit 1, p. 1. It appeared that the Department did not know Claimant was divorced at the point of application processing.

4. On August 26, 2014, the Department sent Claimant a Health Coverage Determination Notice (determination notice) notifying her that she was eligible for MA benefits for the month of September 2014 (with a monthly deductible). See Exhibit 1, p. 5. In the determination notice, the Department requested a copy of Claimant's and her husband's pension. See Exhibit 1, p. 5.

5. On an unspecified date, Claimant contacted the Department and indicated she was divorced, but they were still living together. See Exhibit 1, p. 1. On or around September 2, 2014, Claimant provided a copy of the divorce decree to the Department. See Exhibit 1, p. 6.

6. On an unspecified date, the Department reprocessed Claimant's application, which removed the ex-husband's status as to "unrelated" and his income. See Exhibit 1, p. 1.

7. On October 14, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 2.

8. On October 17, 2014, the Department sent Claimant a determination notice notifying her that she was eligible for MA coverage effective August 1, 2014, ongoing. See Exhibit 1, p. 4.

9. On October 20, 2014, the Department sent Claimant a determination notice notifying her that she was not eligible for MA benefits effective November 1, 2014, ongoing, due to excess income. See Exhibit 2, pp. 4-6. However, the determination notice comments section stated that due to Department error, Claimant received MA – AD Care in error. See Exhibit 2, p. 4. The determination notice indicated that Claimant was placed back to a spend-down effective November 1, 2014. See Exhibit 2, p. 4.

10. On October 30, 2014, Claimant filed a second hearing request, protesting the Department's action. See Exhibit 2, pp. 2-3.

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.

Preliminary matter

First, Claimant filed two separate hearing requests, on October 14, 2014 and October 30, 2014. See Exhibit 1, p. 2 and Exhibit 2, p. 2. During the hearing, Claimant argued that both hearing requests are disputing the same issue. The Department argued that Claimant was found eligible for MA - Group 2 Spend-Down (G2S). However, Claimant testified that she met and requested eligibility for the Healthy Michigan Plan (HMP) instead. As such, Claimant's two hearing requests were consolidated and as the outcome is the same for each hearing request, this single writing is being issued to avoid unnecessarily duplicative content.

Second, it was discovered during the hearing that Claimant's MA benefits had closed due to a failure to provide verification. The Department sent Claimant two Verification Checklists (VCL), on October 20, 2014 and October 30, 2014. See Exhibit 2, pp. 10-12. A review of Claimant's Eligibility Summary appeared to indicate that her MA benefits closed effective December 1, 2014. See Exhibit 3, p. 1. Finally, a review of Claimant's hearing request found that she is not disputing any MA closure, but the fact that she received G2S coverage.

Based on the above information, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's MA closure because it is subsequent to the hearing request. See BAM 600 (October 2014 and January 2015), pp. 4-6. Claimant can request another hearing to dispute the MA case closure. As such, this ALJ will only discuss if the Department properly processed Claimant's MA application and whether the Department provided her with the most beneficial MA category.

MA benefits

At the hearing, it was not disputed that Claimant resides with her ex-husband, she is a tax filer for a group size of one, receives RSDI and pension income, she is 63-years-old, and her annual income is approximately $11,532. See Exhibit 1, pp. 7-3 and Exhibit 2, p. 5.

Claimant argued that her MA – G2S coverage provided by the Department was inadequate. Claimant argued that she meets the eligibility requirements for HMP. In response, the Department testified that it reprocessed Claimant's eligibility and found her only eligible for MA - G2S coverage. Also, an issue did arise in which the Department provided Claimant's SOLQ report, which indicates she is disabled. See Exhibit 2, pp. 7-9. Claimant, though, disputed that she was not disabled and only received RSDI based on her retirement.

It should be noted that this Administrative Law Judge (ALJ) also reviewed Claimant's Eligibility Summary to determine her MA – G2S deductible. See Exhibit 3, p. 1. However, a review of Claimant's Eligibility Summary found no deductible amount present. See Exhibit 3, 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 October 2014), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1.

The Medicaid program is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI) - related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105, p. 1. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BEM 105, p. 1.

For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105, p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. BEM 105, p. 1.

Persons may qualify under more than one MA category. BEM 105, p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The most beneficial category may change when a client's circumstances change. BEM 105, p. 2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2.

In this case, it appears that Claimant might possibly be eligible for other MA categories, specifically, MAGI related categories. For example, HMP is considered a MAGI related category. Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 4. Available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

The HMP provides health care coverage for individuals who:

- Are 19-64 years of age
- Have income at or below 133% of the federal poverty level under the MAGI methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

Medicaid Provider Manual, *Michigan Department of Community Health*, January 2015, p. 453. Available at http://www.mdch.state.mi.us/dchmedicaid/manuals/medicaidprovidermanual.pdf. All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 453.

It should be noted that the size of the household will be determined by the principles of tax dependency in the majority of cases. MAGI Related Eligibility Manual, p. 14. The household for a tax filer, who is not claimed as a tax dependent, consists of the individual. MAGI Related Eligibility Manual, p. 14. As such, Claimant's household composition appears to be one as Claimant is a tax filer for only herself.

Based on the forgoing information and evidence, the Department failed to satisfy its burden of showing that it properly provided Claimant with the most beneficial MA coverage she is eligible to receive from August 1, 2014, ongoing, retroactive to May 2014.

First, HMP coverage appears to be more of a beneficial MA category than G2S coverage. See BEM 105, pp. 1-4. The Department failed its burden to show why Claimant did not meet the HMP requirements.

Second, as stated previously, it was discovered that Claimant's MA benefits appeared to close effective December 1, 2014, ongoing. See Exhibit 3, p. 1. Again, this ALJ lacks the jurisdiction to address the subsequent closure because it occurred after Claimant's hearing request. See BAM 600, pp. 4-6. Nevertheless, it would be reasonable to conclude that Claimant received MA coverage from August 2014 (month of application) to on or around November 2014 (month before closure). But, a review of Claimant's Eligibility Summary failed to show any active coverage for those months, including a deductible for the alleged G2S coverage.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (January 2015), p. 35. 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. 37.

Based on the evidence presented, the Department failed its burden to show that Claimant properly received MA coverage from the time of application until case closure. BAM 600, pp. 35-37. As such, the Department will re-register and re-process Claimant's MA application dated August 7, 2014, retroactive to May 2014. Then, the Department will determine Claimant's most beneficial MA coverage she is eligible to receive (i.e., HMP eligibility). This hearing decision does not conclude that Claimant is eligible for HMP, or any other MA categories, because the Department has to determine her eligibility.

Third, there is a discrepancy present as to whether Claimant is disabled. As stated above, Claimant argued that she is not disabled. However, Claimant's SOLQ indicated that she is disabled. See Exhibit 2, pp. 7-9. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130 (July 2014 and October 2014), p. 8. To resolve the discrepancy, the Department would use a DHS-3503, VCL, to request verification. BAM 130, p. 3. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 7. A review of the evidence record found no VCL issued to request verification as to whether Claimant is disabled. As such, the Department failed to send Claimant a VCL request to resolve Claimant's alleged disability discrepancy.

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 properly provided Claimant with the most beneficial MA coverage she is eligible to receive from August 1, 2014, ongoing, retroactive to May 2014, in accordance with Department policy.

Accordingly, the Department's 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. Initiate re-registration and re-processing of Claimant's MA application dated August 7, 2014, retroactive to May 2014;

2. Provide Claimant with the most beneficial MA coverage she is eligible to receive from August 1, 2014, ongoing, retroactive to May 2014, in accordance with Department policy;

3. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not in accordance with Department policy; and

4. Notify Claimant of its MA decision in accordance with Department policy.

Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

EJF / cl

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: [redacted]