

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 15-006661
Issue No.: 2001
Case No.: ██████████
Hearing Date: June 3, 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 3, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Assistant Payment Worker.

ISSUES

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective May 1, 2015, ongoing?

Did the Department properly deny Claimant's eligibility for the Medicare Savings Program (MSP) benefits effective April 1, 2015, ongoing?

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 an ongoing recipient of MA – Healthy Michigan Plan (HMP) coverage. See Exhibit B, p. 1.
2. Claimant is ██████-years-old, she receives ██████████ in gross Retirement, Survivors, and Disability Insurance (RSDI) income, and she pays ██████████ for her Medicare Part B premium. See Exhibit B, p. 2.
3. Claimant alleged that she is a tax filer and claimed one tax dependent, her adult son, who is ██████ years-old, resides with the Claimant, and receives approximately ██████████ in Supplemental Security Income (SSI) (disability income).

4. On or around April 8, 2015, Claimant submitted her redetermination.
5. As a result of her redetermination, Claimant's MA – HMP benefits closed effective May 1, 2015, ongoing. See Exhibit B, p. 1.
6. On April 13, 2015, the Department issued a Health Care Coverage Determination Notice (determination notice) notifying her that her MA benefits would close effective May 1, 2015, ongoing because she is not under 21, pregnant, or a caretaker of a minor child in her home, she is not over 65 (aged), blind, or disabled. See Exhibit A, pp. 4-5. The determination notice indicated her annual income is [REDACTED]. See Exhibit A, p. 5.
7. On April 13, 2015, the determination notice also notified Claimant that she is not eligible for the MSP benefits effective April 1, 2015, due to excess income. See Exhibit A, pp. 4-5.
8. On April 17, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MA – HMP benefits

HMP is considered a Modified Adjusted Gross Income (MAGI) related category. MAGI Related Eligibility Manual, *Michigan Department of Community Health (DCH)*, May 2014, p. 4.

Available at http://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*, April 2015, p. 462. Available at:
<http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 462.

In this case, Claimant was an ongoing recipient of MA – HMP coverage and the coverage closed effective May 1, 2015. See Exhibit B, p. 1. Per the Department's testimony and evidence, Claimant's HMP closed due to excess income. The Department indicated that Claimant's income of [REDACTED] exceeded the HMP income limit of \$1[REDACTED] for a household size of one (133% of the federal poverty level). However, Claimant testified during the hearing that she is a tax filer and claimed one tax dependent, her adult son, who is [REDACTED]-old, resides with the Claimant, and receives approximately [REDACTED] in SSI (disability income). Based solely on the Claimant's testimony, the Department did not process her HMP eligibility in accordance with Department because her household composition appears to be two.

Regarding HMP eligibility, the Department determines her household composition based on the principles of tax dependency. MAGI Related Eligibility Manual, p. 14. In this case, Claimant's household composition appears to be two (Claimant plus her adult son). MAGI Related Eligibility Manual, p. 14.

Based on the above information, this Administrative Law Judge (ALJ) would appear to conclude that the Department failed to satisfy its burden of showing that it properly denied Claimant's HMP benefits. Nevertheless, a subsequent review of the evidence record discovered that Claimant is not eligible for HMP coverage. Claimant's State On-Line Query (SOLQ) established that she pays [REDACTED] for her Medicare Part B premium, which began on January 1, 2012. See Exhibit B, p. 2. Policy clearly states that HMP provides health care coverage for individuals who do not qualify for or are not enrolled in Medicare. Medicaid Provider Manual, p. 462. Claimant is clearly enrolled in Medicare, which would make her ineligible for HMP. Thus, it is harmless error by the Department for not providing such a denial reason on the determination notice dated April 13, 2015 because Claimant is ultimately not eligible for HMP coverage.

Other MA categories

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 (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 an 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.

An ex parte review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BEM 105, p. 5. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. See BEM 105, p. 5. The review includes consideration of all MA categories. BEM 105, p. 5 and see also BAM 210 (April 2015), p. 1 (ex parte review also listed under the redetermination process).

In this case, the Department acknowledged during the hearing that it failed to determine Claimant's MA eligibility for other MA categories, i.e., MA – Group 2 Spend-Down (G2S). As policy states, the Department must consider Claimant for other MA category options (ex parte review). See BEM 105, p. 2 and BAM 210, p. 1. In fact, it appears during the hearing that the Department processed Claimant's eligibility for other MA categories and found her eligible for MA – G2S with a [REDACTED] monthly deductible. See Exhibit B, p. 1. However, this action occurred subsequent to Claimant's hearing request.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to consider Claimant's eligibility for all

of other MA categories (ex parte review) effective May 1, 2015. As such, the Department will redetermine Claimant's MA eligibility for other MA categories (i.e., G2S) for May 1, 2015, ongoing, if not already completed (as the evidence appears to indicate that the Department redetermined Claimant's eligibility for other MA categories after the hearing request). See Exhibit B, p. 1.

MSP benefits

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (January 2015), 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, 2015, to be eligible for full coverage AD-Care/QMB, income cannot exceed \$1,000.83 for a fiscal group of one or \$1,347.50 for a fiscal group of two; for limited coverage QMB/SLMB, \$1,001.84 to \$1,197 (fiscal group of one), and \$1,347.51 to \$1,613.00 (fiscal group of two); and for ALMB \$1,197.01 to \$1,344.13 (fiscal group of one), and \$1,613.01 to \$1,812.13 (fiscal group of 2). RFT 242 (May 2015), pp. 1-2. In regards to Claimant's group composition for MSP benefits, her group composition is one. See BEM 211 (January 2015), pp. 4-7.

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. Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

In this case, the evidence presented that Claimant's gross unearned income is [REDACTED] (RSDI income). See Exhibit B, p. 2. The Department then properly subtracted the \$20 disregard to establish Claimant's total net income unearned income to be [REDACTED]. See BEM 541 (January 2015), p. 3 and Exhibit B, p. 3. For MSP benefits, income eligibility exists when net income is within the limits in RFT 242 or 247. BEM 165, p. 7. Claimant's net income for a fiscal group size of one exceeds the limits for all three MSP categories. See RFT 242, pp. 1-2. Because Claimant's income exceeded the income eligibility for all three MSP categories, the Department properly determined that Claimant is not eligible for MSP benefits effective April 1, 2015, ongoing in accordance with Department policy. BEM 165, p. 7 and RFT 242, pp. 1-2. Claimant can reapply for MSP benefits.

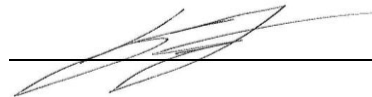
DECISION AND ORDER

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 (i) acted in accordance with Department policy when it closed Claimant's MA – HMP benefits effective May 1, 2015, ongoing; (ii) acted in accordance with Department policy when it determined that Claimant is not eligible for MSP benefits effective April 1, 2015; and (iii) did not act in accordance with Department policy when it failed to consider Claimant's eligibility for all of other MA categories (ex parte review) effective May 1, 2015.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to HMP and MSP eligibility and **REVERSED IN PART** with respect to eligibility for all other MA categories.

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 Claimant's MA eligibility for May 1, 2015, if not already completed;
2. Provide Claimant with the most beneficial MA coverage she is eligible to receive for May 1, 2015, ongoing, if not already completed; and
3. Notify Claimant of its decision.



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

Date Signed: **6/4/2015**

Date Mailed: **6/4/2015**

EJF/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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