

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

**IN THE MATTER OF:**

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

Reg. No.: 15-008164  
Issue No.: 2001  
Case No.: ██████████  
Hearing Date: June 24, 2015  
County: Wayne (76-Gratiot/7 Mile)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████ ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████ ██████████ ██████████ ██████████.

**ISSUES**

1. Did the Department properly process Claimant's benefits under the Medicare Savings Program (MSP)?
2. Did the Department properly deny Claimant's wife's eligibility for Medical Assistance (MA) benefits effective May 1, 2015, ongoing?
3. Did the Department properly conclude that Claimant was eligible for MA benefits subject to a monthly \$961 deductible?

**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, his wife, and their minor child live together.
2. Claimant and his wife jointly file taxes and claim their child as a dependent.
3. Claimant and his wife were ongoing recipients of MA benefits.

4. Claimant was an ongoing recipient of MSP benefits.
5. Claimant receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$788 (Exhibit C).
6. Since February 2015, the Social Security Administration (SSA) has been withholding funds from Claimant's RSDI to pay his Part B Medicare premium (Exhibits C and 1).
7. Claimant's wife receives monthly pension benefits. Those benefits decreased from \$830 to \$775 gross effective February 2015.
8. Claimant's daughter receives gross monthly RSDI income of \$476 (Exhibit D).
9. On March 23, 2105, the Department sent Claimant's wife a Health Care Coverage Determination Notice notifying her that she was not eligible for MA effective May 1, 2015 (Exhibit A).
10. On March 30, 2015, SSA notified Claimant that effective February 2015 his monthly RSDI benefits would be reduced for payment of medical insurance premiums.
11. On May 13, 2015, Claimant requested a hearing disputing the closure of his wife's MA case, his MA deductible, and his MSP case.

### **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. MSP is an MA program.

#### **MSP Case**

Claimant disputed the Department's processing of his MSP case. At the hearing, the Department testified that Claimant was eligible for ongoing MSP benefits. The Department presented an MA-EDG Summary showing that Claimant had an October 1, 2014, eligibility begin date for MSP coverage under the Additional Low-Income

Medicare Beneficiaries (ALMB) program (Exhibit B). The ALMB program pays a client's Medicare Part B premiums as long as funding is available. BEM 165 (January 2015). The Department testified that Claimant had ongoing, uninterrupted MPS coverage since October 2014 and did not present any evidence that funding was not available.

Claimant presented a March 30, 2015, letter from SSA showing that, beginning February 2015, SSA was deducting amounts from his monthly RSDI benefits to pay for his Medicare premium (Exhibit 1). Consistent with Claimant's wife's testimony that the Department had stopped paying Claimant's Part B Medicare premiums in February 2015, the SOLQ report showed a Part B buy-in "stop date" of February 1, 2015 (Exhibit C). The Part B buy-in program is the Department program that pays an eligible client's Part B premiums. BAM 810 (April 2014), pp. 7-8. Based on the evidence presented, the Department did not act in accordance with Department policy when it processed Claimant's MSP case for February 2015 ongoing.

### **MA Cases**

Claimant also disputed the closure of his wife's MA case and his MA deductible case. Claimant, who receives RSDI benefits because of a disability, received MA under the G2S program subject to a monthly deductible of \$961. Claimant's wife was denied MA coverage as of May 1, 2015, in a March 23, 2015, Health Care Coverage Determination Notice because she was not under 21 year old, pregnant, the caretaker of a minor child in the home, over age 65, blind or disabled.

At the hearing, the Department acknowledged that Claimant and his wife were the parents of a 17-year-old child who lived in the home with them. Therefore, the Department had to consider their eligibility for MA categories available to individuals with children in the household, including MAGI-related and Group 2 Caretaker/Relative policies. See BEM 135 (January 2015); Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), pp. 2-3, *available at* [http://www.michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf). Because the Department did not process Claimant and his wife's eligibility based on their status as caretakers of a minor child, the Department did not act in accordance with Department policy in concluding that Claimant was eligible for MA subject to a \$961 monthly deductible and Claimant's wife was ineligible for MA.

Furthermore, a client is eligible for the most beneficial MA category, which is the category that results in eligibility or the least amount of excess income. BEM 105 (October 2014), p. 2. An individual is eligible for MA coverage under the Healthy Michigan Plan (HMP) if the individual (i) is 19 to 64 years of age; (ii) has income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) does not qualify for or is not enrolled in Medicare; (iv) does not qualify for or is not enrolled in other MA programs; (v) is not pregnant at the time of application; and (vi) is a resident of the State of Michigan. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProvider>

Manual.pdf.

Because Claimant receives Medicare, he is not eligible for HMP coverage. To determine Claimant's wife's HMP eligibility, the Department has to consider the group size and income. Because Claimant jointly filed taxes with his wife and they claimed their daughter as a dependent, for MAGI purposes Claimant's wife has a household size of three. MREM, § 5.2. The income limit for HMP eligibility in 2015 for a household with three members is \$26,719.70, or \$27,724.20 with the 5% disregard. <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. MAGI Related Eligibility Manual, § 7.2.

The Department testified that Claimant received gross monthly RSDI benefits of \$788 and his daughter received gross monthly RSDI benefits of \$476 (Exhibit D). Although the Department was budgeting \$830 for Claimant's wife's monthly pension income, Claimant's wife credibly testified that her pension had decreased to \$775 effective February 2015 and she had tried multiple times to inform her worker of the changes but no one would take the change report. Corrected income will have to be considered in determining Claimant's eligibility for HMP.

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 did not act in accordance with Department policy when it (i) failed to process Claimant's MSP case, (ii) determined Claimant's MA eligibility subject to a \$961 deductible, and (iii) denied Claimant's wife MA coverage.

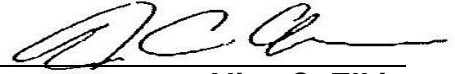
### **DECISION AND ORDER**

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. Issue supplements to SSA for MSP payments Claimant was eligible to receive from February 1, 2015, ongoing;
2. Reinstate Claimant's wife's MA case effective May 1, 2015;
3. Reprocess Claimant's and his wife's MA eligibility and deductible, as applicable;
4. Provide Claimant and his wife with MA coverage they are eligible to receive from May 1, 2015, ongoing; and

5. Notify Claimant in writing of its decisions.



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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **7/01/2015**

ACE / pf

**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]