

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

IN THE MATTER OF:



Reg. No.: 15-009283
Issue No.: 2001; 5001
Case No.: [REDACTED]
Hearing Date: July 20, 2015
County: WAYNE-DISTRICT 57

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 July 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, Joyce Richardson. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included [REDACTED], Acting Program Manager; and [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly process Claimant's Medical Assistance (MA) and State Emergency Relief (SER) application submitted in May 2015?

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 [REDACTED], Claimant submitted an online application for MA benefits and SER assistance for heat, electric, water/sewage, and cooking gas. See Exhibit B, pp. 1-23. Claimant indicated that she only applied for SER assistance with water/sewage.
2. In the application, Claimant indicated the following: (i) she is blind or disabled; (ii) she needed assistance for heat, electric, water/sewage, cooking gas; (iii) she reported that her last household income (under SER-Payment History) occurred in February 2015; and (iv) she did not report any current income. See Exhibit B, pp. 4, 5-9, and 10-11.

3. Claimant receives unemployment benefits every two weeks in the amount of \$724.
4. On [REDACTED], the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that she is not eligible for MA benefits effective [REDACTED], ongoing, because she is not under 21, pregnant, a caretaker of a minor in her home, she is not over 65 (aged), blind, or disabled. See Exhibit A, pp. 6-8. The Department also calculated Claimant's annual income to be \$18,756. See Exhibit A, p. 7.
5. The Department erred in the denial of the MA application because the Department failed to process her disability determination.
6. On [REDACTED], the Department sent Claimant a SER Decision Notice, which required that (i) Claimant pay a \$192.05 copayment for the water or sewage, then the Department would pay \$0 towards the water or sewage; (ii) Claimant pay a \$148.26 copayment for the heat service, then the Department would pay \$850 towards the heat; and (iii) Claimant pay a \$0 copayment for the electric service, then the Department would pay \$314.47 towards the electric. See Exhibit B, pp. 24-26. Also, the SER Decision notified that Claimant's total copayment is \$340.31, which results from a \$192.05 income/asset copayment and \$148.26 in contributions from Claimant and/or other sources. See Exhibit B, p. 24.
7. On [REDACTED], 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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

MA application

On May 19, 2015, Claimant applied for MA benefits. See Exhibit B, p. 1 and see BAM 110 (July 2014), p. 5 (For applications filed electronically, the date of the application is the submission date regardless of the time received). In the application, Claimant indicated the following: (i) she is blind or disabled; (ii) she reported that her last household income (under SER-Payment History) occurred in February 2015; and (iii) she did not report any current income. See Exhibit B, pp. 4, 5-9, and 10-11.

In the present case, two issues arose during the hearing in which the undersigned will address separately below.

First, the Department erred in the denial of the application because the Department failed to process her disability determination. See Exhibit A, p. 1. Even though the determination notice indicated she was not disabled, the Department never considered her disability as an eligibility factor. See Exhibit A, pp. 6-7 and Exhibit B, pp. 4-5.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (April 2015), p. 17.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110, p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (January 2015), p. 15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 16.

Based on the foregoing information and evidence, the Department failed to properly process Claimant's MA application dated [REDACTED], in accordance with Department policy. The Department failed to process Claimant's disability as an eligibility factor. As such, the Department will reprocess Claimant's MA application in accordance with Department policy. BAM 105, p. 17; BAM 110, pp. 4 - 21; and BAM 115, p. 15, 16, 23, and 24.

Second, Claimant sought to be income eligible for the Healthy Michigan Plan (HMP) because she argued that the Department miscalculated her annual income of \$18,756.

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.

During the hearing, Claimant's testimony/evidence indicated the following: (i) she is between the ages of 19-64; (2) she is not enrolled in Medicare; (3) she was not enrolled in other Medicaid programs at the time she had HMP; (4) she is not pregnant at the time of application; and (5) she is a resident of Michigan. See Medicaid Provider Manual, p. 462. Moreover, Claimant must have income at or below 133% of the federal poverty level under the MAGI methodology to be eligible for HMP. See Medicaid Provider Manual, p. 462.

Before determining whether Claimant's income is at or below 133% of the federal poverty level, the Department must determine Claimant's household composition. 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. In this case, Claimant testified that she was a tax filer and claimed no tax dependents for the tax year 2014. Therefore, Claimant's household composition is one for MAGI purposes. MAGI Related Eligibility Manual, p. 14.

The analysis now turns to whether Claimant's income is at or below 133% of the federal poverty level. The 2015 Poverty Guidelines for the 48 Contiguous States and the District of Columbia indicated that the poverty guidelines for persons in family/household size of one is \$11,770. 2015 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 22, 2015, p. 1. Available at: <http://aspe.hhs.gov/poverty/15poverty.cfm>. However, the poverty guidelines for a household size of one must be multiplied by 1.33 (133%) to obtain the 133% federal poverty level calculation. The result is that Claimant's income must be at or below

\$15,654.10 (\$11,770 multiplied by 1.33) of the federal poverty level for a household size of one.

Then, it must be determined whether Claimant's income is countable. MAGI is a methodology for how income is counted and how household composition and family size are determined. MAGI Related Eligibility Manual, p. 16. It is based on federal tax rules for determining adjusted gross income. MAGI Related Eligibility Manual, p. 16. Every individual is evaluated for eligibility based on MAGI rules. MAGI Related Eligibility Manual, p. 16. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. MAGI Related Eligibility Manual, p. 16. Common sources of income which are countable in a MAGI related determination includes unemployment benefits. See MAGI Related Eligibility Manual, p. 16. As such, Claimant's unemployment benefits are countable for HMP purposes.

Next, the Department testified that upon processing Claimant's application, the Department discovered that Claimant receives unemployment benefits every two weeks in the amount of \$724. Claimant did not dispute this amount. The Department indicated that it took \$724 and multiplied it by 2.15 to obtain a monthly amount of \$1,556.60. Then, the Department took the monthly amount of \$1,556.60 and multiplied it by 12 months, which resulted in an annual income of \$18,679.20. It should be noted that this amount is less than the amount indicated in the determination notice (\$18,756). See Exhibit A, p. 7.

In response, Claimant testified that she was only eligible to receive six months of unemployment compensation. Therefore, her annual income should be approximately \$8,688 (\$724 biweekly unemployment compensation multiplied by 2 (biweekly pay), then times 6 (for months receiving unemployment)). Therefore, Claimant argued her income is at or below the \$15,654.10 federal poverty level.

A problem arises as how to budget Claimant's income. MAGI-related MA policy is silent on how to calculate the income. 42 CFR 435.603(h)(1) states that for applicants and new enrollees:

Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.

Also, 42 CFR 435.603(h)(3) states:

In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both . . .

Based on the above information, Claimant's income exceeds 133% of the federal poverty level. As stated above, 42 CFR 435.603(h)(1) states that for applicants and new enrollees, financial eligibility is based on current monthly household income and family. At the time of application, the undersigned finds that Claimant's monthly income was \$1,448 (\$724 unemployment compensation times 2 (biweekly pay)) and her annual income is \$17,376 (\$1,448 monthly household income times 12 months). Claimant's monthly income exceeds the monthly federal poverty limit of \$1,304 (\$15,654.10 annual federal poverty level divided by 12 months) and also, her annual income of \$17,376 exceeds the annual federal poverty level of \$15,654.10. In either case, Claimant's current monthly household income exceeded the monthly and/or annual federal poverty level of 133%.

Also, Claimant's argument is improper that her annual income should be approximately \$8,688 because she is only eligible to receive six months of unemployment compensation. Claimant failed to indicate in her application that she receives unemployment compensation and the Department based its calculation on its available system reports. The Department was unaware at the time of application of how long Claimant would receive unemployment benefits and properly determined that her current monthly income exceeded the 133% federal poverty level. Nevertheless, as stated above, the Department failed to process Claimant's disability determination and it will re-register and reprocess Claimant's MA application dated [REDACTED].

SER application

On [REDACTED], Claimant submitted an online application for SER assistance for heat, electric, water/sewage, and cooking gas. See Exhibit B, pp. 1-23 and see ERM 103 (October 2013), p. 2. (For electronic applications submitted through MIBridges, the application date is determined based on the time and date of submission. Any application submitted after 5:00 pm or on a non-business day will have an application date of the next business day). Claimant indicated that she only applied for SER assistance with water/sewage. However, a review of the online application clearly indicated that she applied for multiple SER requests. See Exhibit B, pp. 1-23. Claimant testified that her electric and heat is not at issue as it was resolved via a third party agency. See Exhibit A, p. 3 (Request for Hearing). As such, the undersigned only addressed Claimant's concern with the SER assistance for water/sewage.

On [REDACTED], the Department sent Claimant a SER Decision Notice, which required that Claimant pay a \$192.05 copayment for the water or sewage, then the Department would pay \$0 towards the water or sewage. See Exhibit B, p. 24. The SER Decision notified that the \$192.05 amount that Claimant had to pay consisted of an income/asset copayment. See Exhibit B, p. 24. In summary, the Department denied Claimant's SER request for water or sewage as it would be zero for her water/sewage service.

During the hearing, the Department failed to present any income/asset copayment to determine if the Department properly calculated this amount. However, Claimant testified that on [REDACTED], her water/sewage was disconnected. Therefore, Claimant

testified that she sought assistance from a third party agency to assistance her with the water/sewage payment. On or around [REDACTED], Claimant testified that her water/sewage emergency had been resolved as the third party agency assisted her with the water/sewage payment.

SER prevents serious harm to individuals and families. ERM 101 (March 2013), p. 1. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1. In addition SER applicants must:

- Complete the application process.
- Meet financial and non-financial requirements.
- Have an emergency which threatens health or safety and can be resolved through issuance of SER.
- Take action within their ability to help themselves. For example, obtain potential resources and/or apply for assistance.
- Not have caused the emergency.
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home.

ERM 101, p. 1. Deny SER services for applicants who fail to meet any of the above requirements. ERM 101, p. 1.

Additionally, as a condition of SER eligibility, all the adults in the SER group must agree to take actions within their ability to make potential resources available. ERM 203 (June 2013), p. 1. Potential resource means an asset or income that may be available to a client if action is taken to make this available. ERM 203, p. 1. Pursuing a potential resource increases the group's ability to resolve their emergency with the additional income or asset. ERM 203, p. 1. The SER group must take reasonable action to obtain potential resources including, but not limited to: program benefits under cash, tax refunds, etc...See ERM 203, pp. 1-2.

Based on the foregoing information and evidence, the undersigned finds that Claimant's water or sewage issue has been resolved and therefore, the Department properly denied Claimant's SER assistance request for water/sewage. Even though it is subsequent to Claimant's SER application/decision notice, Claimant indicated that she received assistance for her water/sewage emergency from a third party agency and that it had been subsequently resolved. Because Claimant no longer had an emergency which threatens her health or safety (i.e., heat, electric, and water/sewage) and that she took actions within her ability to resolve the emergency, the Department's SER decision is affirmed. See ERM 101, p. 1 and ERM 203, pp. 1-2.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to SER application dated [REDACTED] and **REVERSED IN PART** with respect to MA application dated [REDACTED].

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 reprocessing of Claimant's MA application dated [REDACTED];
2. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not; and
3. Notify Claimant of its decision.



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

Date Signed: **7/21/2015**

Date Mailed: **7/21/2015**

EF / hw

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:

