

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003553
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: May 06, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 May 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included his daughter who is designated as his power of attorney, and her attorney [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine Claimant's Medical Assistance eligibility?

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 November 24, 2014, Claimant's daughter submitted a Medicaid Application Patient of Nursing Facility (DHS-4574) for Claimant. VA benefits are indicated in the income section of the application and the note "aid + attendance" is written in.
2. On February 4, 2015, Claimant was sent notice of his Medical Assistance eligibility.
3. On February 18, 2015, Claimant's daughter submitted a hearing request.

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.

During this hearing the only argument raised was in regard to Claimant's VA benefit amount. Attorney ██████ argued that Claimant receives the aid and assistance allowance which was incorrectly included in his income for determining eligibility. Page 7 is the verification submitted for Claimant's VA benefits. It does not identify inclusion of any additional allowances. The Department asserts that no verification of an aid and assistance allowance was provided. Bridges Eligibility Manual (BEM) 503 Income, Unearned (2014) at page 36 states:

VA PENSION AND COMPENSATION

All Types of Assistance

Pension payments are based on a combination of a service connected and non-service-connected disability or death. Pensions are normally paid monthly. However, the VA may make the payment quarterly, twice a year or annually if the amount is small (less than \$19 per month).

Compensation payments are based on service-connected disability or death.

The pension and compensation payment can include one or more of the following additional allowances:

- Aid and attendance or housebound allowances.
- VA adjustment for unusual medical expenses.
- VA clothing allowance.
- Augmented benefit because of a dependent.

Note: These additional allowances are **not** identifiable on a check stub or award letter. Accept the client's statement that the payment does **not** include any additional allowances nor an amount for dependents.

Bridges counts the gross amount of the pension or compensation as unearned income.

Exceptions:

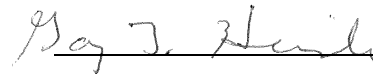
Bridges excludes any portion of a payment resulting from an Aid and Attendance or Housebound allowance, except the \$90 reduced VA payment made to certain MA recipients in Medicaid-certified long term care facilities; see BEM 546 about identifying such payments.

Exclusion of an aid and attendance allowance is clearly stated in policy. However, the issue in this hearing is about verification of an aid and assistance allowance. The policy cited above specifies that the Department will accept the client's statement that the payment does not include any additional allowances. It does not say that the Department will accept the client's statement that the payment does include any additional allowances. Therefore verification requirements in Department policy are applicable. Bridges Eligibility Manual (BEM) 503, at page 41, lists VA benefit verification sources as: DHS-75, Verification of VA Payments; and other acceptable method that provides necessary information.

In the absence of verification of a VA benefit including an additional allowance, "Bridges counts the gross amount of the pension or compensation as unearned income." 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 determine Claimant's Medical Assistance eligibility.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

GH/las

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:

