

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004389
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: June 02, 2015
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on June 02, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], authorized hearings representative for the Claimant. Participants on behalf of the Department included [REDACTED], lead worker.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for Medical Assistance (MA) and Medicare Savings Program benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is an ongoing Medical Assistance (MA) recipient.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
3. On February 24, 2015, the Department notified the Claimant that he was approved for Medical Assistance (MA) with a \$ [REDACTED] deductible.
4. On August 7, 2014, the Michigan Administrative Hearing System ordered the Department to redetermine the Claimant's eligibility for the Medicare Savings Program as of November 1, 2013.

5. On March 16, 2015, the Department received the Claimant's request for a hearing protesting his Medical Assistance (MA) benefits and the Department's failure to pay his Medicare premiums.

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 Claimant is a Medicare recipient and receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. A review of claimant's case reveals that the Department budgeted correct amount of income received by the Claimant. Claimant's "protected income level" is \$350, and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Claimant has a \$ [REDACTED] deductible per month he must meet in order to qualify for MA for any medical expenses above is therefore correct.

The Claimant's gross monthly income exceeds the \$ [REDACTED] limit to receive MA benefits without a deductible as of April 1, 2015. Department of Health and Human Services Reference Table Manual (RFT) 242 (May 1, 2015), pp 1-2. As a Medicare recipient, the Claimant is not eligible for benefits under the Healthy Michigan Plan (HMP).¹

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available.

¹ Department policy for the Healthy Michigan Program (HMP) is located in the Modified Adjusted Gross Income (MAGI) Related Eligibility Manual on the internet at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 2-3.

A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. BEM 165, p 1.

On August 7, 2014, the Michigan Administrative Hearing System (MAHS) ordered the Department to review the Claimant's eligibility for Medicare Savings Program benefits as of November 1, 2013. The Department is not disputing that the Claimant is eligible for these benefits but the Department's representative testified that there is a delay between a determination of eligibility and when benefits are issued.

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 determined the Claimant's deductible amount in the most beneficial category of Medical Assistance (MA) he is eligible to receive, but did not act in accordance with Department policy when it failed to issue Medicare Savings Program benefits within a reasonable standard of promptness.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Medical Assistance (MA) eligibility and **REVERSED IN PART** with respect to the Medicare Savings Program.

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 a determination of the Claimant's eligibility for the Medicare Savings Program as of November 1, 2013.
2. Provide the Claimant with a Health Care Coverage Determination Notice (DHS-1606) describing the Department's revised eligibility determination for each month since November 1, 2013.

3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/8/2015**

Date Mailed: **6/8/2015**

KS/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 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:

