

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-008600
Issue No.: 1000, 2001
Agency Case No.: [REDACTED]
Hearing Date: August 26, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing¹ was held on August 26, 2015, from Saginaw, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) 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. Claimant has been receiving Freedom to Work Medicaid (MA-FTW) benefits. (Department Exhibit B, pp. 19-25)
2. Claimant and her husband were found eligible for the Medicare Savings Program as an Additional Low-Income Medicare Beneficiaries (MSP-ALMB) for the benefit period of November 1, 2014, through June 30, 2015. (Department Exhibit A, p. 9)

¹ Two hearings were scheduled for Claimant on August 26, 2015, at 11:00 am, (MAHS Reg. No. 15-008600 and 15-011604) based on the two hearing requests filed by Claimant. The hearings were held in conjunction because the same Medical Assistance (MA) program issues were raised in both appeals.

3. On June 10, 2015, and June 25, 2015, Claimant filed hearing requests² contesting the MA eligibility determinations.

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.

Department policy sets forth the categories for the Medicare Savings Program (MSP), including the eligibility factors and what each MSP category pays. Income is the major determiner of category. For the ALMB category, net income is over 120% of poverty but not over 135% of poverty. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department if funding is available. BEM 165, January 1, 2015, pp. 1-9.

Freedom to Work Medicaid (MA-FTW) is available to a client with disabilities age 16 through 64 who has earned income. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested. A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility. BEM 174, July 1, 2013, pp. 1-4.

In this case, the parties agreed there was concern that Claimant's MA program eligibility has not been correctly determined. For example, Claimant asserted that she does not meet the MA-FTW criteria because she has not worked in years. Claimant was also concerned about the MSP benefits. The Hearing Facilitator agreed that Claimant's eligibility for MA programs, including Medicaid and the MSP, should be re-determined for June 2015 forward.

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 failed to

² The hearing request also indicated Claimant was contesting a case action regarding the Family Independence Program (FIP). During the hearing proceedings, Claimant withdrew the FIP portion of her hearing request, in part noting that she asked for the FIP benefit to close. Accordingly, the FIP portion of this appeal is DISMISSED.

satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's eligibility for MA program benefits.

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. Re-determine Claimant's eligibility for MA programs, including Medicaid and the MSP retroactive to June 2015, in accordance with Department policy.
2. Issue written notice of the determination(s) in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **9/15/2015**

CL/jaf

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:

