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

IN THE MATTER OF:

MAHS Reg. No.: 15-014924
Issue No.: 2001
Agency Case No.: [redacted]
Hearing Date: October 14, 2015
County: OAKLAND-DISTRICT 3

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 October 14, 2015, from Lansing, Michigan. The Claimant, [redacted], appeared and testified on his behalf. The Department was represented by Assistance Payments Supervisor, [redacted].

ISSUE

Did the Department properly take action to close the Claimant's Medicare Cost Share (QMB) and Medicaid Ad-care cases due to excess income?

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 was an ongoing recipient of Medicare Cost Share (QMB) and Medicaid Ad-care benefits.

2. On June 21, 2015, the Department sent the Claimant a DHS-1606, Health Care Coverage Determination Notice informing the Claimant that he had excess income for Medicare Cost Share (QMB) and Medicaid Ad-care benefits and that his case would close effective September 1, 2015.

3. On August 3, 2015 the Department received the Claimant's written hearing request protesting the closure of his 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.

In this case, the Department asserts that the Claimant has $.17 excess income to be eligible for QMB and Medicaid Ad-care. The Department has [redacted] as the income limit in the budget in evidence and the Claimant has [redacted] net income. Reference Tables Manual (RFT) 242 lists the income limit for a group size of one as [redacted] This would mean that the Claimant does not have excess income to be eligible for benefits. Yet, RFT 242 contains the following language:

> Note: Use table 1 to determine Ad-Care (BEM 163) and full-coverage QMB (BEM 165) income eligibility. Income limits are 100% of the federal poverty level (FPL) plus [redacted] disregard.

During the hearing, the Department supervisor surmised that the worker who calculated the Claimant's budget applied a [redacted] disregard to the income limit of $1000.83. This Administrative Law Judge determines that the evidence and policy are not clear in this case. The notation in RFT 242 table 1 could simply be an explanation of how the income limit had been calculated as opposed to an instruction to apply a $20 disregard to the income limit of $1000.83. As such, this Administrative Law Judge concludes that the evidence is insufficient to establish that the Department was acting in accordance with its policy when taking action to close the Claimant's case.

Furthermore, when asked, the Department supervisor testified that the Department was not obligated to determine eligibility for additional cost share programs such as limited-coverage QMB, known as SLM or ALMB. The Department supervisor testified that it was incumbent upon the Claimant to reapply. This Administrative Law Judge disagrees. Bridges Eligibility Manual (BEM) 105 p. 2, provides that persons may qualify under more than one Medical Assistance (MA) category and the Department's worker must consider all the MA category options in order for the Claimant's right of choice to be meaningful. This policy provision specifically refers to Medicare Savings Programs, which do constitute MA. A Claimant cannot be expected to know the differing income levels for

differing MA categories. Not only did the Department error in closing the Claimant's case, the Department also erred when it did not consider the Claimant's eligibility for other, more beneficial MA programs.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department did not act in accordance with Department policy when it took action to close the Claimant's QMB and Ad-Care cases and then also when it failed to consider the Claimant's eligibility for other, more beneficial MA programs.

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. Redetermine the Claimant's eligibility for QMB and Ad-Care back to September 1, 2015, and

2. If it is determined that he is not eligible for those programs, consider the Claimant's eligibility for all the MA category options, and

3. Issue the Claimant any supplement he may thereafter be due.

Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/20/2015**

SEH/sw

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]