

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

IN THE MATTER OF:

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Reg. No.: 15-015444
Issue No.: 2001
Case No.: ██████████
Hearing Date: October 26, 2015
County: Macomb- District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner'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 26, 2015, from Detroit, Michigan. Petitioner appeared with ██████████, Case Manager at ██████████ and represented himself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program (MSP) case on the basis that his income exceeded the limit?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of MA benefits under the Freedom to Work (FTW) MA category and was an ongoing recipient of MSP benefits under the Qualified Medicare Beneficiaries (QMB) program.
2. Petitioner receives Retirement Survivors and Disability Insurance (RSDI) benefits in the amount of \$889 monthly. (Exhibit C)
3. Petitioner is also employed at ██████████ and receives earned income. (Exhibit D)
4. On August 12, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective September 1, 2015, his Medicare Savings Program (MSP) would be closed. (Exhibit A)

5. On August 21, 2015, Petitioner requested a hearing disputing the closure of his MSP 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.

Petitioner requested a hearing disputing the Department's actions with respect to the closure of his MSP case effective September 1, 2015. MSP are SSI-related MA categories and are neither Group 1 nor Group 2. There are three MSP categories: Qualified Medicare Beneficiaries; Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2015), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165 (January 2015), p. 1. The Department stated that Petitioner did not meet the eligibility requirements for any of the three MSP categories.

At the hearing, the Department testified that Petitioner was not eligible for ALMB benefits because he was an ongoing recipient of MA benefits under the FTW program. BEM 174 provides that a client eligible for MA under the FTW is not eligible for MSP benefits under the ALMB category. BEM 174 (July 2013, p.4. Therefore, the Department properly determined that Petitioner is ineligible for ALMB MSP benefits. With respect to the QMB and SLMB categories, the Department testified that Petitioner was no longer eligible for QMB and was ineligible for SLMB benefits because his income exceeded the income limit for both of those programs. Income eligibility for QMB and SLMB exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. BEM 165, pp. 7-8. For QMB, the monthly income limit for a group size of one is \$1000.83 and for SLMB the monthly income limit for Petitioner's group size of one is \$1197. RFT 242 (May 2015), p. 2.

In support of its contention that Petitioner had excess income for QMB and SLMB MSP benefits, the Department presented a SSI Related MA Income Results Budget. (Exhibit B). The Department testified that in calculating Petitioner's unearned income for MA purposes, it considered Petitioner's gross monthly RSDI benefits in the amount of \$889. Petitioner confirmed his monthly RSDI amount and the Department presented a SOLQ in support of its testimony, thus the Department properly calculated Petitioner's unearned income and also properly subtracted the \$20 disregard. BEM 530 (January 2014), pp. 1-2; BEM 541 (January 2014), p 3. (Exhibit C).

The budget also shows that the Department determined that Petitioner had earned income in the amount of \$714 which came from his employment at [REDACTED]. Specifically, the Department considered the income information that it had on file for Petitioner from March 2015 as there were no income changes reported on his recent redetermination. The Department stated that it considered Petitioner's earnings of \$405.53 paid on March 10, 2015 and \$308.96 paid on March 24, 2015. (Exhibit D). Petitioner confirmed that he is employed at [REDACTED] and stated that his hours of employment had been reduced and he is no longer working as many hours. Petitioner confirmed that he did not report this change until the day of the hearing; thus, the Department relied on the correct income information. After further review, the Department properly determined Petitioner's earned income and properly applied the \$65 + ½ of the fiscal group's remaining earnings to determine that Petitioner had net earned income of \$324.50 BEM 541, p. 3; RFT 291 (December 2013), p. 44. There was no evidence presented that Petitioner was entitled to any other deductions to income. BEM 530 (January 2014), pp 1-4; BEM 541 (January 2015), pp.2-3.

The budgets show that the Department determined that Petitioner had countable income of \$1194, which is in excess of the \$1000.83 income limit for QMB. However, Petitioner's countable income of \$1194 is below the \$1197 income limit for SLMB referenced above. Therefore, while Petitioner is not eligible for QMB based on excess income and ineligible for ALMB based on his receipt of FTW MA, the Department did not properly determine that Petitioner was ineligible for SLMB based on excess 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 did not act in accordance with Department policy when it closed Petitioner's MSP case effective September 1, 2015.

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. Reinstate Petitioner's MSP case effective September 1, 2015;
2. Provide Petitioner with the appropriate SLMB MSP coverage from September 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/10/2015**

Date Mailed: **11/10/2015**

ZB / tlf

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]