

**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.: 15-024040
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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, an in-person hearing was held on February 10, 2016, from Saginaw, Michigan. The Petitioner, [REDACTED] and her husband, [REDACTED] appeared and testified. The Department was represented by Hearing Facilitator, [REDACTED]

ISSUE

Did the Department properly take action to reduce the Petitioner's Medical Assistance (MA) and Medical Cost Share Program (MCSP) 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 Petitioners were recipients of full MA and MCSP (QMB). Specifically, the Petitioner had Freedom to Work (FTW) MA.
2. On October 23, 2015, the Department sent the Petitioner a DHS-1606, Health Care Coverage Determination Notice informing the Petitioner that the Petitioner was no longer eligible for FTW MA because she was no longer working. The Petitioner's husband was eligible for full MA for the month of June, 2015. The notice also informed the Petitioner that she was now subject to a monthly deductible of \$ [REDACTED] beginning December 1, 2015 and ongoing.
3. Based on Departments exhibit D, from December 1, 2015 ongoing, the Petitioner was eligible for MA with a deductible of \$ [REDACTED] and her husband was also eligible

with a deductible of \$ [REDACTED] though for the month of October 2015, the Petitioners deductible was \$ [REDACTED] as per the Departments notice.

4. On December 17, 2015 and again on January 1, 2016, the Department received the Petitioner's written a hearing requests protesting the Department's determination that both the Petitioner and her husband were subject to a deductible on their MA 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 uncontested testimony was that the Petitioner had full MA in error because she was not working and therefore not eligible for FTW-MA she had been receiving. The Petitioner is now eligible for MA-G2U as a caretaker relative (deductible of \$ [REDACTED] and the Petitioner's husband is eligible for MA G2S (deductible of \$ [REDACTED] Both are eligible for MSCP/ALMB whereas previously they had MCSP/QMB. The practical difference between the two is that with MCSP/QMB the entire part B premium is covered by the benefit whereas with MSCP/ALMB it is only covered *if* funds are available. The Petitioners protest these reductions in their MA and MCSP benefits.

Bridges Eligibility Manual (BEM) 105 (2015) p. 2, does provide that the Petitioners have the right to the most beneficial MA category that results in the least amount of excess income, or the lowest cost share. Nevertheless, the Petitioners must be categorically and financially eligible for the benefit. It was not contested that the Petitioner is no longer working and that the Petitioner had, for many months, FTW MA that she was not entitled to. Departmental policy in Bridges Administrative Manual (BAM) 700 (2015) pp. 2, 3, charges the Department's workers with the duty of preventing overissuances of benefits and, when discovered, taking immediate action to correct overissuances. Though this Administrative Law Judge can certainly sympathize with the Petitioners disappointment in no longer having full MA and now being subject to a deductible, the Petitioners are not eligible and have not been eligible for full MA.

During the hearing, this Administrative Law Judge carefully reviewed the MA budgets and the amounts the Department considered as income and deductions with the Petitioners. The Petitioners did not contested any of those amounts. A thorough review of the Department's budgets establish that the Department had properly determined the Petitioner's deductibles.

Regarding the reduction in MCSP/QMB to MSCP/ALMB, the income limits can be found in RFT 242 (2015) pp. 1, 2. It provides that to be eligible for MSCP/QMB or even MSCP/SLM, for a group size of two, the Petitioners must have less than \$ [REDACTED] in income. The Petitioners did not contest that they have countable income of \$ [REDACTED]. As such, this Administrative Law Judge concludes that the Department has properly determined that the Petitioners have excess income to be eligible for these categories of MSCP. However, RFT 242 does provide that the Petitioners meet the income limits for MCSP/ALMB. BEM 165 (2015) p. 1, provides that ALMB pays Medicare part B premiums provided funding is available. As such, this Administrative Law Judge concludes that the Department has properly determined that the Petitioners are eligible for MCSP/ALMB and that the Petitioners will receive this benefit if funding is available.

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 took action to reduce the Petitioners MA and MSCP cases.

DECISION AND ORDER

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



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

Date Mailed: **2/12/2016**

SEH/nr

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:

