

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

IN THE MATTER OF:

J [REDACTED]
[REDACTED]

Reg. No.: [REDACTED]
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2014
County: MACOMB-DISTRICT (36)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a three-way telephone hearing was held on [REDACTED], 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included Craig Brownlee, Hearings Facilitator.

ISSUES

Did the Department properly close Claimant's Medicare Savings Program (MSP)?

Did the Department properly issue supplements for Claimant's MSP - Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1) benefits effective [REDACTED], 2014, ongoing?

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 is an ongoing recipient of MSP – ALMB coverage.
2. On [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying her that her MSP – ALMB coverage would close effective [REDACTED], 2014, ongoing, due to her income exceeding the limits for the program. See Exhibit 1, pp. 5-6.
3. On [REDACTED], 2014, Claimant filed a hearing request, protesting the MSP closure. See Exhibit 1, pp. 3-4.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matters

First, it appeared that the hearing was not scheduled as a three-way telephone hearing. Nevertheless, the hearing proceeded via a three-way telephone hearing.

Second, Claimant testified that she submitted a hearing request dated [REDACTED], 2014. However, the evidence presented a hearing request from the Claimant dated [REDACTED], 2014. See Exhibit 1, pp. 3-4. A review of the hearing request (letter) indicated that she submitted a request for hearing on [REDACTED], 2014. See Exhibit 1, p. 3. Again, though, there is no hearing request in the evidence packet dated [REDACTED], 2014. Nonetheless, Claimant is disputing her MSP – ALMB case closure and properly requested a hearing within 90 calendar days from the date of the written notice of case action. See BAM 600 (March 2014), p. 6. As such, the MSP closure will be addressed below.

Third, on [REDACTED], 2014, the Department sent Claimant a Health Care Coverage Determination Notice (DHS-1606) notifying her that she is eligible for MA benefits effective [REDACTED], 2014, ongoing, with a \$ [REDACTED] monthly deductible. See Exhibit 3, pp. 4-6. However, the written Notice of Case Action is dated subsequent to Claimant's hearing request ([REDACTED], 2014). Therefore, this hearing lacks the jurisdiction to address the determination notice (dated [REDACTED], 2014) because it was issued subsequent to the hearing request. See BAM 600, pp. 4-6. Claimant can request another hearing to dispute the determination notice dated May 8, 2014. See BAM 600, p. 6.

MSP benefits

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (January 2014), p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (October 2013), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Income is the major determiner of which category an individual falls under. BEM 165, p. 1. Effective [REDACTED], 2013, to be eligible for full coverage ALMB, income cannot exceed \$1,152.00 to \$1,293.00 (fiscal group of one), and \$1,552.00 to \$1,745.00 (fiscal group of 2). RFT 242 (December 2013), pp. 1-2.

Effective April 1, 2014, to be eligible for full coverage ALMB, income cannot exceed \$1,188 to \$1,333 (fiscal group of one), and \$1,594 to \$1,790 (fiscal group of 2). RFT 242 (April 2014), pp. 1-2. It was not disputed that the fiscal group size is one in this case.

ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. BEM 165, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1. ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

In this case, Claimant was an ongoing recipient of MSP – ALMB coverage; however, the Department subsequently reinstated benefits. First, though, on [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying her that her MSP – ALMB coverage would close effective [REDACTED], 2014, ongoing, due to her income exceeding the limits for the program. See Exhibit 1, pp. 5-6.

At the hearing, the Department presented an ALMB budget for the benefit period of April 2014, in which it determined that her income exceeded the eligibility limits. See Exhibit 1, p. 7. The budget indicated a gross unearned income of \$[REDACTED], which Claimant did not dispute. See Exhibit 1, p. 7. Then, the Department properly subtracted the \$20 disregard to establish Claimant's total net income countable income of \$[REDACTED]. See BEM 541 (January 2014), p. 3 and Exhibit 1, p. 7. The budget shows, though, that her countable income was greater than the ALMB income limit of \$1,293. Exhibit 1, p. 7. Thus, it resulted in the closure of her MSP – ALMB coverage effective April 1, 2014. See Exhibit 1, pp. 5-6.

However, the Department applied the improper income limit test for the ALMB benefits. RFT 242 states that effective [REDACTED], 2013, to be eligible for full coverage ALMB, income cannot exceed \$1,152.00 to \$1,293.00 (fiscal group of one). See RFT 242 (December 2013 and April 2014), p. 2. But, the Department applied the wrong time period. Rather, the Department should have applied the benefit period of April 1, 2014,

which stated to be eligible for full coverage ALMB; income cannot exceed \$1,188 to \$1,333 (fiscal group of one). See RFT 242 (April 2014), p. 2. Thus, based on this information, the Department improperly closed Claimant's MSP – ALMB coverage because it improperly calculated the MA benefits (e.g., improper income limit test applied). See BEM 165, p. 7 and RFT 242 (December 2013 and April 2014), p. 2.

Even so, it appeared that the Department reinstated benefits. The hearing summary stated that upon receiving the hearing request dated [REDACTED], 2014, the Department processed a new request for the MSP program. See Exhibit 1, p. 1. The Department testified the income limit had been updated in the system to reflect the proper amounts for 2014 and the program was reinstated back to the closure date of [REDACTED], 2014. See Exhibit 1, p. 1. Even though it was subsequent to the hearing request, the Department sent Claimant a Health Care Coverage Determination Notice dated [REDACTED], 2014, which stated she was eligible for MSP effective [REDACTED], 2014, ongoing. See Exhibit 3, pp. 1-3. It is unclear why it found her eligible effective [REDACTED], 2014, ongoing, when the original closure notice stated benefits were closed effective [REDACTED], 2014. See Exhibit 1, p. 5.

Then, the Department presented the updated ALMB budget for the benefit period of April 2014. See Exhibit 1, p. 8. All of the calculations were the same as the previous budget, other than the income limit. In this budget, the income limit was \$1,313. Again, though, it is unclear where the Department determined an income limit of \$1,313 because policy indicates that effective [REDACTED], 2014, to be eligible for full coverage ALMB, income cannot exceed \$1,188 to \$1,333 (fiscal group of one). RFT 242 (April 2014), p. 2.

At this point, it appeared that the Claimant's MSP-ALMB issue was moot because the Department reinstated benefits. However, the evidence presented that Claimant had not been reimbursed MSP – ALMB benefits for [REDACTED], 2014, ongoing. On [REDACTED], 2014, the Department even submitted a remedy ticket to have the March to May 2014 MSP – ALMB benefits be reimbursed for the Claimant. See Exhibit 2, pp. 1-3. It appears that error is a coding issue. See Exhibit 2, pp. 1-3. Claimant testified that the problem had been fixed for her pay period of June 2014, ongoing, in which she is not paying for the ALMB coverage.

Nevertheless, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's MSP – QLMB coverage effective [REDACTED], 2014, ongoing. The time period of [REDACTED], 2014, ongoing, will be indicated in the Decision and Order (D&O) because that is the benefit period at issue. The Department improperly calculated Claimant's MSP benefits due to applying the improper income limit test for the ALMB coverage. Then, even though benefits were alleged to be reinstated via the notice dated [REDACTED], 2014, Claimant still has yet to be issued supplements for [REDACTED], 2014, ongoing. RFT 242 (December 2013 and April 2014), p. 2. As such, the Department will reinstate Claimant's MSP – ALMB coverage

effective [REDACTED], 2014, ongoing (if not already completed), and issue supplements for the same time period in accordance with Department policy.

DECISION AND ORDER

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 satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed and calculated Claimant's MSP – QLMB coverage effective March 1, 2014, ongoing.

Accordingly, the Department's decision MSP/MA 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 Claimant's MSP-ALMB coverage effective [REDACTED], 2014, if not already completed;
2. Issue supplements to Claimant for any MSP-ALMB benefits she was eligible to receive but did not from [REDACTED], 2014, ongoing; and
3. Notify Claimant in writing of its MSP/MA decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

EJF/cl

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 48909-07322

cc: [REDACTED]
Macomb-District 36 (Sterling Hts)
AH
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