

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]
Kent County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on April 4, 2011. After due notice, a telephone hearing was held on September 7, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Medical Assistance (MA) deductible amount?

FINDINGS OF FACT

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

1. On February 24, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) closing his MA-Ad Care then changing it to MA-Group 2 with a [REDACTED] deductible effective April 1, 2011 due to excess income. (Department Exhibits 4-8).
2. Claimant had a group size of 3 (three) at all relevant times.
3. Claimant collects [REDACTED] in gross unearned income from SSI. (Department Exhibit 10).
4. On March 17, 2011, Claimant's oldest child in household became 18 years of age. (Hearing Summary). (Department Exhibit 5).
5. On April 4, 2011, Claimant submitted a hearing request protesting the MA deductible. (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.

- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings, are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing in the instant matter concerns the Medical Assistance or Medicaid (MA) program and the Department's calculation of his deductible or spend down. The MA program is summarized below.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The MA program is also referred to as Medicaid. BEM 105. 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. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BEM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BEM 105.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105.

A fiscal group is established for each person requesting MA (see BEM 211) and budgetable income is determined for each fiscal group member. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536.

For an MA recipient, a future month budget must be performed at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530. For an MA deductible client, a future month budget must be performed at redetermination and when a change occurs that may affect deductible status. BEM 530. Countable income is income remaining after applying MA policy in BEM 500. BEM 530.

MA Ad-Care is an SSI-related Group 1 MA category available to persons who are aged or disabled (AD). BEM 163. MA Ad-Care is used before using Extended Care (BEM 164) or any Group 2 MA category. BEM 163. The department will consider eligibility under this category only if eligibility does not exist under BEM 154 through 158. BEM 163.

In order to be eligible for MA Ad-Care, the client's net income cannot exceed 100% of the poverty level. BEM 163. All eligibility factors in this item must be met in the calendar month being tested. BEM 163. If the month being tested is an L/H month and eligibility

exists, the department will go to BEM 546 to determine the post-eligibility patient-pay amount. BEM 163.

The Administrative Law Judge was unable to replicate the numbers arrived at by the Department in this matter. During the hearing, the Department representatives were unable to provide an explanation for the numbers other than to say that "Bridges" calculated the numbers. Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the department followed policy as required under BAM 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's MA eligibility, including MA deductible amounts.

Therefore, the department's determination is REVERSED and the department is hereby instructed redetermine Claimant's eligibility for MA benefits and conduct a comprehensive recalculation of Claimant's MA benefits including the proper deductible amounts. Any DHS-1605 should also specifically articulate the policy reasons that support the Department's decision.

The department shall also issue any retroactive benefits that Claimant is entitled to receive.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/26/11

Date Mailed: 9/26/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CAP/ds

■ [REDACTED]