

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201214267
Issue No.: 2014; 2026
Case No.: [REDACTED]
Hearing Date: April 12, 2012
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 12, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's case for Medical Assistance (MA) coverage under the Ad-Care program and the Medical Savings Program, Qualified Medicare Beneficiaries (QMB) benefits?

Did the Department properly provide MA coverage to Claimant with a \$1378 deductible?

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 was an ongoing recipient of MA coverage under the Ad-Care program and Medical Savings Program, QMB.
2. In August 2011, the Department became aware that it had failed to account for Claimant's pension income in determining her eligibility for MA coverage under the Ad-Care program and Medical Savings Program, QMB.
3. Claimant receives a gross monthly pension of \$1773.

4. On August 26, 2011, the Department sent Claimant a Notice of Case Action notifying her that, effective October 1, 2011, her MA coverage under the Ad-Care program and the Medical Savings Program, QMB, would close because her income exceeded the income limit for those programs and that she would be eligible for MA coverage with a \$1378 monthly deductible.
5. Claimant filed a hearing request on October 28, 2011, disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98

and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Ad Care and QMB Coverage

On August 26, 2011, the Department notified Claimant that her monthly income exceeded the income limit for the Ad-Care program and QMB benefits under the Medicare Savings Program and that her MA coverage under both programs would close effective October 1, 2011.

Ad-Care and QMB benefits (which pay Medicare premiums, coinsurances, deductibles) are both SSI-related MA category programs. BEM 163; BEM 165. Individuals are eligible for Ad-Care and QMB if their net income does not exceed 100% of the federal poverty level. BEM 163; BEM 165. The monthly limit under this standard is \$908. RFT 242.

In determining a client's net income for MA purposes, the Department considers the gross monthly unearned income received by the client. BEM 503; BEM 530. In this case, Claimant confirmed that she received monthly gross pension income of \$1773. This amount is reduced by a \$20 disregard, resulting in a net income for MA purposes of \$1753. BEM 541. Because Claimant's net income of \$1753 exceeds the income limit of \$908 for Ad-Care and QMB coverage, the Department acted in accordance with Department policy when it closed Claimant's cases under both of these MA programs.

MA Deductible

The August 26, 2011, Notice of Case Action sent by the Department to Claimant also notified Claimant that she was eligible for MA coverage with a deductible of \$1378. Individuals aged 65 or older are eligible for MA under an SSI-related category when net income (countable income minus allowable income deductions) does not exceed the applicable protected income level based on shelter area and fiscal group size. BEM 105; BEM 166; BEM 544; RFT 240. If an individual's income is in excess of the applicable monthly protected income level, the individual may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly income exceeds the protected income level. BEM 545.

In this case, the monthly protected income level for Claimant's MA group size of one living in Wayne County is \$375 per month. RFT 200, 240. As discussed above, Claimant's net unearned income for MA purposes is \$1753. Because \$1753 exceeds the monthly protected income level of \$375 by \$1378, Claimant is eligible for MA coverage once she incurs medical expenses in excess of \$1378 during the month. Thus, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for MA coverage with a \$1378 monthly deductible.

For clients eligible for MA coverage under the deductible program, the Department will provide MA coverage each month after the client meets the deductible amount. BEM 545. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month considered. BEM

545. Clients must report expenses by the last day of the third month following the month they want medical coverage. BEM 545; 42 CFR 435.831. Allowable expenses must be reported when they are incurred, whether paid or unpaid. BEM 545. If a group has not met its deductible in at least one of the three calendar months before the month being considered and none of the members are QMB, SLM or ALM eligible, the MA case may close. BEM 545. If an MA client has allowable old bills (bills incurred in months prior to the one in consideration and which remain unpaid) in excess of the deductible amount, the Department applies these expenses towards the client's deductible for future months in accordance with BEM 545.

At the hearing, Claimant expressed concerns regarding the fact that she no longer had coverage for home care assistance. The Department explained that Claimant had filed a separate hearing request with respect to that issue which had been referred to the Department's Adult Services division. Because the worker indicated that he was not prepared to address that issue, it was not considered at the April 12, 2012, hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when it closed Claimant's MA coverage under the Ad-Care program and QMB Medical Savings Program and provided Claimant with MA coverage with a monthly deductible of \$1378.

did not act properly when

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 16, 2012

Date Mailed: April 16, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

