

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-31785
Issue No: 2026
Case No: [REDACTED]
Hearing Date: March 22, 2012
Isabella 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 the claimant's request for a hearing received on April 13, 2011. After due notice, a telephone hearing was held on March 22, 2012. Claimant personally participated and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

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. Claimant was receiving MA Group 2 benefits during the relevant time periods.
2. On January 5, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) indicating that her MA Group 2 had closed and that she would now have a deductible.
3. On January 25, 2012, Claimant submitted a hearing request to challenge the Department's decision regarding her FAP and MA calculations, including the proper calculation of Claimant's MA deductible amount. (Request for Hearing).
4. The Department provided the Administrative Law Judge with a hearing packet that contained the hearing summary, statement of wages from [REDACTED] [REDACTED] for Claimant and her husband (2 pages), and some Bridges computer printouts regarding Claimant's child support and unemployment income.

5. The hearing summary indicated that the Department received documentation on January 3, 2012 that Claimant received unemployment benefits from the [REDACTED] in the amount of [REDACTED] per week. The hearing summary then indicates the new figures were budgeted along with Claimant's "irregular child support" which resulted in a [REDACTED] MA deductible.
6. The hearing packet did not contain the January 5, 2012 DHS-1605 giving rise to the request for hearing. The hearing packet also did not contain any budgets to show how the Department calculated Claimant's MA deductible amount.
7. Other than the hearing summary, the hearing packet did not contain documents to explain the calculation of Claimant's MA deductible amount of [REDACTED]. The verifications contained in the packet consisting of unemployment benefits from the State of Texas did not support the Department's deductible calculation.
8. Claimant requested a hearing on January 25, 2012 to challenge the MA deductible.

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 which 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).

In the instant matter, the Department has failed to clearly communicate to this Administrative Law Judge the precise nature of the Department's actions. The Department's Hearing Summary (DHS-3050) provides a summary of what occurred however the hearing packet is not complete. The hearing packet did not contain many salient documents and the documents that were present in the packet only created more questions. Unfortunately, the documentation in this hearing packet did not provide any insight to demonstrate the Department action giving rise to Claimant's hearing request. During the hearing, the Department representative was unable to clearly and succinctly articulate the nature of the Department's actions giving rise to the request for a hearing.

The record here does not contain enough documentation for the ALJ to objectively determine how the Department calculated the Claimant's MA deductible or whether the Department's calculation was consistent with policy. Based on the lack of documentation and the inability of the Department representative to explain the Department's action, this Administrative Law Judge is unable to make a reasoned, informed decision.

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 and MA deductible amount.

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Therefore, the Department's MA deductible determination is REVERSED and the Department is hereby instructed to redetermine Claimant's eligibility for MA benefits and conduct a recalculation of Claimant's MA benefits including the proper deductible amounts.

It is SO ORDERED.

/s/

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

Date Signed: 4/2/12

Date Mailed: 4/2/12

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]