

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201264670
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: October 29, 2012
County: Wayne (43)

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 October 29, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's home health care aide and Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly provide Claimant with MA coverage with a monthly \$702 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 benefits.
2. On July 3, 2012, the Department sent Claimant a Notice of Case Action advising her that, effective August 1, 2012, she would receive MA coverage with a monthly \$702 deductible.
3. On July 13, 2012, Claimant filed a hearing request disputing the Department's action.

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), and Department of Human Services 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 Mich Admin Code, 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.

The July 3, 2012, Notice of Case Action sent by the Department to Claimant notified her that she was eligible for MA coverage with a deductible of \$702 effective August 1, 2012. Clients are eligible for Group 2 SSI-related MA coverage when net income

(countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels based on the client's shelter area and fiscal group size. BEM 105 (October 1, 2010), p 1; BEM 166 (October 1, 2010), pp 1-2; BEM 544 (August 1, 2008), p 1; RFT 240 (July 1, 2007), p 1. An individual whose income is in excess of the applicable monthly protected income level 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 levels. BEM 545 (July 1, 2011), p 2.

In this case, the monthly protected income level for an MA group of one (Claimant) living in Wayne County is \$375 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income exceeds \$375, she is eligible for MA coverage with a monthly deductible equal to the amount that her monthly net income exceeds \$375.

In determining a client's net income for MA purposes, the Department considers the gross monthly unearned income received by the client. BEM 503 (October 1, 2011), p 1; see also BEM 530 (August 1, 2008). The Department presented a Single Online Query (SOLQ) showing that Claimant received gross monthly Retirement Survivors and Disability Insurance (RSDI) benefits of \$1136 beginning January 2012. The Department presented an MA budget for August 2012 which showed gross monthly unearned income of \$1096, which was the amount of RSDI benefits Claimant received until the RSDI increase in January 2012. The August 2012 budget also showed that there was no deduction provided for Claimant's payment of her Part B premium, which the SOLQ showed, and the Department verified, that Claimant was paying. The Department was unable to explain at the hearing what event had triggered the issuance of the July 3, 2012 Notice of Case Action, and why current information concerning Claimant's income and expenses was not considered for the calculation of the August 2012 MA deductible. Thus, the Department did not act in accordance with Department policy when it calculated Claimant's August 2012 MA budget, and, consequently, the amount of the deductible Claimant was subject to.

The Department also presented an MA budget for September 2012 and October 2012, showing that Claimant's MA budget had been recalculated and, as a result, Claimant's monthly deductible had decreased to \$641. This budget showed Claimant had \$1136 in gross monthly unearned income, consistent with the SOLQ. Claimant is entitled to a \$20 disregard from her unearned income and a deduction for any insurance premiums she pays, including her \$100 Part B Medicare premium. BEM 541 (January 1, 2011), p 3; BEM 544 (August 1, 2012), p 1. This brings her net income for MA purposes down to \$1016. BEM 541 (January 1, 2011), p 3. Because Claimant's net income of \$1016 exceeded the applicable \$375 protected income level by \$641, the Department properly calculated Claimant's monthly deductible for September 2012, ongoing, at \$641.

At the hearing, Claimant was concerned about her obligation to submit her monthly medical expenses to the Department in order to meet her deductible, particularly because she had expenses she regularly incurred on a monthly basis. If a client is

eligible for MA coverage with a deductible, the Department will provide MA coverage to a client each month after the client meets the deductible amount. BEM 545, p 8. To meet a deductible, clients must report and verify allowable medical expenses that equal or exceed the deductible amount for the calendar month considered by the last day of the third month following the month they want medical coverage. BEM 545, p 9; 42 CFR 435.831. A medical expense must be incurred in order to be an allowable expense, and a charge cannot be incurred until the service is provided. BEM 545, p 12. Therefore, in order to have her medical expenses considered, Claimant must submit documentation of these expenses to the Department after the service has been provided. While Claimant finds it inconvenient to continuously submit verification of medical expenses she incurs on a monthly basis, Department policy requires that she provide verification of these expenses in order to establish that her deductible has been met for the month. Further, if an MA group has not met its deductible in at least one of the three calendar months before that month and none of the members are QMB, SLM or ALM eligible, the MA case may close. BEM 545, p 9.

During the hearing, Claimant indicated that she had a personal care Home Help Service worker paid by the Department that assisted her in her home. If the amount due for home health care services on a monthly basis exceeds Claimant's monthly deductible, Claimant may wish to discuss with the Department whether she is eligible to pay the worker directly and have the cost applied towards her ongoing MA income eligibility to reduce her monthly deductible or make her eligible for full-MA coverage without a deductible. See BEM 545, pp 3, 18-20.

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 .
 did not act properly when it failed to calculate Claimant's monthly MA deductible for August 2012 in accordance with Department policy.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's monthly deductible amount as of August 1, 2012, in accordance with Department policy and consistent with this Hearing Decision;
2. Provide Claimant with MA coverage she is eligible to receive from August 1, 2012, ongoing; and

3. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: 11/1/2012

Date Mailed: 11/1/2012

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/hw

cc:

