

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201275783
Issue No.: 2018; 2026
Case No.: [REDACTED]
Hearing Date: December 12, 2012
County: Oakland (02)

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 December 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], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) coverage under the Ad-Care program?

Did the Department properly provide Claimant and his wife with MA coverage with a monthly \$461 deductible for each?

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 and his wife were ongoing recipients of MA benefits, with Claimant receiving coverage under the Ad-Care program and Claimant's wife receiving coverage under the Group 2-Caretaker (G2C) program.
2. On August 21, 2012, the Department sent Claimant a Notice of Case Action notifying him that, effective October 1, 2012, his coverage under the Ad-Care program would

close and he would receive MA coverage under the G2C program with a monthly \$402 deductible.

3. The Department discovered an increase in Claimant's wife's Retirement, Survivors, and Disability Insurance (RSDI) benefits, as well as an increase in RSDI benefits received by two of his children, and increased the deductible for both Claimant and his wife to \$461 effective October 1, 2012.
4. On August 27, 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.

Additionally, the Department sent Claimant a August 21, 2012, Notice of Case Action informing him that, effective October 1, 2012, his MA coverage under the Ad-Care program would close and he would be covered under the G2C program with a monthly \$402 deductible.

Closure of Claimant's Ad-Care Case

In the August 21, 2012, Notice of Case Action, the Department notified Claimant that his monthly income exceeded the income limit for the Ad-Care program and that his coverage under that program would close effective October 1, 2012.

The Ad-Care program is an SSI-related MA category program. BEM 163 (October 1, 2010), p 1. Individuals are eligible for Ad-Care coverage if their net income does not exceed 100% of the federal poverty level. BEM 163, p 2. The monthly limit under this standard for a medical group composed of two individuals (Claimant and his wife in this case) is \$1261. RFT 242 (May 1, 2012), p 1.

In this case, the Department did not provide an MA budget showing the calculation of Claimant's net income resulting in the closure of Claimant's Ad-Care coverage. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Ad-Care case.

Calculation of Claimant's Deductible

At the hearing, the Department initially testified that Claimant's wife was covered under the G2C MA program with a \$461 monthly deductible and Claimant had full coverage under an SSI-related MA program. However, the Department's review of Claimant's case during the course of the hearing revealed that both Claimant and his wife were covered under the G2C program with a \$461 monthly deductible. The Department further explained that, while the August 21, 2012 Notice of Case Action indicated that the monthly deductible was \$402, in connection with Claimant's hearing request the Department recalculated the applicable deductible and determined that Claimant and his wife were each subject to a \$461 monthly deductible under the G2C program.

If a person qualifies for MA coverage under more than one MA category, the individual has the right to the most beneficial category, which is the one that results in eligibility or the least amount of excess income. BEM 105 (October 1, 2010), p 2. The evidence in this case established that Claimant was disabled and, prior to October 1, 2012, was receiving disability-based MA coverage. Because the Department did not establish that Claimant's coverage under the G2C program was most beneficial to him, the

Department has failed to satisfy its burden of showing that it acted in accordance with Department policy in finding that Claimant's most beneficial program was the G2C MA coverage with a monthly deductible of \$461.

While this conclusion requires the Department to reprocess Claimant's eligibility to determine the program most beneficial to him, Claimant should be aware that the Department may conclude that G2C MA coverage with a monthly deductible is the most beneficial MA program for Claimant. If Claimant disputes the Department's determination, he is free to request a hearing to have the Department action reviewed.

Calculation of Claimant's Wife's Deductible

The Department determined that Claimant's wife was eligible for MA coverage with a monthly \$461 deductible. Clients are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 135 (January 1, 2011), p 2; BEM 544 (August 1, 2008), p 1; RFT 240 (July 1, 2007), p 1. In this case, the monthly PIL for an MA group of two (Claimant and his wife) living in Oakland County is \$541 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1.

An individual whose income is in excess of the applicable monthly PIL 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 applicable PIL. BEM 545 (July 1, 2011), p 2. Thus, if Claimant's wife's net monthly income exceeds \$541, she is eligible for MA coverage with a monthly deductible equal to the amount that her monthly net income exceeds \$541.

In this case, the Department testified that the following income was received by Claimant and his wife: (i) Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1073; and (ii) Claimant's gross monthly pension of \$95.31; and (iii) Claimant's gross monthly RSDI benefits of \$359. A review of the MA-FIP related MA budget for Claimant's wife shows that the Department properly considered the foregoing income and Claimant's two minor children in the home when it calculated Claimant's wife's total net income of \$1002. BEM 536 (January 1, 2010); BEM 503 (October 1, 2011), p 1; BEM 530 (August 1, 2008). Because Claimant's wife's monthly total net income of \$1002 exceeds the \$541 PIL by \$461, the Department acted in accordance with Department policy when it concluded that Claimant's wife was eligible to MA coverage under the G2C program with a monthly deductible of \$461.

Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's Ad-Care case and covered him under the G2C MA program with a \$461 monthly deductible, but acted in accordance with Department policy when it covered Claimant's wife under the G2C program with a \$461 monthly deductible.

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 provided Claimant's wife with G2C MA coverage with a \$461 monthly deductible.

did not act properly when it closed Claimant's Ad-Care case and provided Claimant with G2C MA coverage with a \$461 monthly deductible.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to providing G2C MA coverage to Claimant's wife with a \$461 monthly deductible AND REVERSED IN PART with respect to closing Claimant's Ad-Care case and providing Claimant with G2C MA coverage with a monthly \$461 monthly deductible.

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 Ad-Care eligibility as of October 1, 2012;
2. Begin redetermining the MA coverage most beneficial to Claimant as of October 1, 2012;
3. Provide Claimant with the most beneficial MA coverage he is eligible to receive from October 1, 2012, ongoing; and
4. 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: December 21, 2012

Date Mailed: December 21, 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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

ACE/cl

cc:

