

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201251001
Issue No.: 2018; 2026
Case No.: [REDACTED]
Hearing Date: September 6, 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 September 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. 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 Medical Assistance (MA) coverage under the Ad-Care program?

Did the Department properly provide Claimant MA coverage with a \$1773 monthly 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 under the Ad-Care program and under the Medicare Saving Program (MSP).
2. In connection with an April 2012 redetermination, the Department became aware of unearned income received by Claimant's husband that had not been previously considered in Claimant's MA budget.

3. On April 3, 2012, the Department sent Claimant a Notice of Case Action, notifying her that her Ad-Care and MSP programs would close effective May 1, 2012.
4. On April 9, 2012, the Department sent Claimant a Notice of Case Action, notifying her that she was eligible for Group 2-MA coverage with a \$1773 monthly deductible.
5. On May 4, 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, in connection with Claimant's April 2012 redetermination, the Department recalculated Claimant's MA budget to include her husband's gross monthly RSDI income. As a result, the Department closed Claimant's MA coverage under the Ad-Care program and her MSP case, on the basis that Claimant's income exceeded the limit under both programs.

Closure of Ad-Care and MSP Cases

The Department testified that Claimant's household's gross income consisted of Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$936 and her husband's gross monthly RSDI income of \$1419.90. Claimant verified the RSDI income amounts. The total of these income sources, rounded up to the nearest dollar, is \$2353. Claimant's gross monthly unearned income of \$2353 was properly reduced by a \$20 disregard, resulting in a net unearned income of \$2333. See BEM 163 (October 1, 2010), p 2; BEM 165 (October 1, 2010), p 6; BEM 530 (August 1, 2008); BEM 541 (January 1, 2011), p 3.

The income limit under the Ad-Care program where there are two members in the fiscal group is \$1261. BEM 163, p 2; BEM 211 (January 1, 2012), p 6; RFT 242 (May 1, 2012), p 1. The income limit for MSP eligibility is \$1703. BEM 165, p 6; RFT (May 1, 2012), p 1. Because Claimant's net income of \$2333 exceeded the income limit under both the Ad-Care program and MSP, the Department acted in accordance with Department policy when it closed Claimant's MA coverage under Ad-Care and MSP.

MA Deductible

Claimant also expressed concerns regarding the amount of her monthly deductible, which was \$1773 for May 1, 2012 ongoing. 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 (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.

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. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month considered. BEM 545, p 9. Clients must report expenses by the last day of the third month following the month they want medical coverage. BEM 545, p 9; 42 CFR

435.831. Allowable expenses must be reported when they are incurred, whether paid or unpaid. BEM 545, p 12. If a 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, 9.

In this case, the monthly protected income level for an MA group of two (Claimant and her husband) living in Wayne County is \$500 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1. At the hearing, the Department produced a SSI-Related MA budget at the hearing to show how the deductible in Claimant's case was calculated. As discussed above, the net income for Claimant's group totaled \$2333. BEM 541 (January 1, 2011), p 3. Claimant received a deduction for her \$99.90 Medicare Part B premiums. However, the Department acknowledged that an additional deduction was due to Claimant based on her husband's \$99.90 Medicare Part B premium. See BEM 544, p 1. The Department credibly testified that Claimant had not provided any other verifications of medical expenses incurred by the group. However, because the Department was aware of Claimant's husband's Medicare premium when it calculated Claimant's MA budget, it did not act in accordance with Department policy when it failed to deduct this amount from Claimant's net income and calculated Claimant's 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 closed Claimant's Ad-Care and MSP cases.
 did not act properly when it calculated Claimant's monthly MA deductible.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to closure of Claimant's Ad-Care and MSP cases REVERSED IN PART with respect to calculation of Claimant's MA deductible.

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

1. Recalculate Claimant's MA deductible for May 1, 2012, ongoing;
2. Provide Claimant with MA coverage she is eligible to receive from May 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: September 13, 2012

Date Mailed: September 13, 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:

