

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201261067
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: November 13, 2012
County: Oakland (03)

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 November 13, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's daughter and Authorized Hearing Representative (AHR), and [REDACTED], Claimant's daughter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly provide Claimant with MA coverage with a monthly \$577 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 May 10, 2012, the Department sent Claimant a Notice of Case Action advising him that, effective June 1, 2012, he would receive MA coverage with a monthly \$577 deductible.
3. On June 20, 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 May 10, 2012 Notice of Case Action sent by the Department to Claimant notified him that he was eligible for MA coverage with a deductible of \$577, effective June 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 Oakland County is \$408 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income exceeds \$408, he is eligible for MA coverage with a monthly deductible equal to the amount that his monthly net income exceeds \$408.

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 an MA budget for June 2012 which showed Claimant's gross monthly unearned income of \$1005, which was the amount he received in gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits, which Claimant's AHR verified that Claimant received. Claimant was eligible for a \$20 disregard from his unearned income, bringing his net unearned income to \$985. BEM 541 (January 1, 2011), p 3. A client is also eligible to have the cost of health insurance premiums excluded from his net income. See BEM 544 (August 1, 2008), p 1. While the Department initially indicated that Claimant was entitled to a deduction for the Part B Medicare premiums that he paid from his RSDI benefits, Claimant's AHR testified that, ultimately, the Department had paid those premiums on Claimant's behalf. Because Claimant's AHR testified that Claimant was not responsible for any insurance premiums, the Department properly did not deduct insurance premiums from his net income to determine his countable income.

At the hearing, Claimant's AHR also testified that Claimant had monthly home health care expenses. Personal care services are allowable medical expenses and include services a client receives in the home for assistance with eating/feeding, toileting, bathing, dressing, transferring, grooming, ambulation, taking medication, and services provided in the client's home essential to the ill person's health and comfort, such as personal laundry, meal preparation/planning, shopping/errands and light housekeeping. BEM 545 (July 1, 2011), p 17. If an MA client receives personal care services, the Department must consider whether the client's expenses meet the income eligibility for past and processing month. BEM 545, pp 2-3. If the expense results in the client meeting income eligibility for a processing month, **income eligibility is ongoing unless the Department projects a change.** BEM 545, p 3 (emphasis provided).

In this case, Claimant's AHR testified that a caretaker came into Claimant's home for two hours daily, seven days a week to assist Claimant. Claimant's AHR credibly testified that the Department became aware of the home health care expenses at the time of the redetermination. The Department is required to request information about

all medical expenses incurred during and prior to each month with excess income. BEM 545, p 2. Because the Department did not take Claimant's caregiver expenses into consideration in his MA budget when assessing his MA income eligibility, the Department did not act in accordance with Department policy.

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 calculated Claimant's MA budget for June 2012, ongoing.

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 MA budget to determine his income eligibility and, if applicable, monthly deductible as of June 1, 2012, in accordance with Department policy and consistent with this Hearing Decision, requesting any verification concerning Claimant's personal care services as required by Department policy;
2. Provide Claimant with MA coverage he is eligible to receive from June 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: 11/20/2012

Date Mailed: 11/20/2012

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:

