

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24914
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Oakland (63-04)

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 April 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly provide Claimant Medical Assistance (MA) coverage with a \$1,291 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.
2. On January 11, 2013, the Department sent Claimant a Notice of Case Action, notifying him that the MA coverage for him and his wife under the Ad-Care program would close effective January 31, 2013, and Claimant's MA coverage under the Medicare Savings Program would also close effective January 31, 2013.
3. On January 18, 2013, 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 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.

Additionally, Claimant and his wife were receiving MA coverage under the Ad-Care program, which provides full MA coverage to individuals who meet the net income limit. BEM 163 (October 1, 2010), p. 1. Claimant also received MA coverage under the Medicare Savings Program (MSP), which pays for a client's Medicare premiums, and possibly other Medicare expenses. BEM 165 (October 1, 2010), pp. 1-2.

The Department testified that, in connection with an MA redetermination, it recalculated Claimant's MA eligibility and found that Claimant and his wife were no longer income eligible for Ad-Care coverage and Claimant was no longer income eligible for MSP benefits. On January 11, 2013, the Department sent Claimant a Notice of Case Action notifying him of the closure of the Ad-Care and MSP cases effective February 1, 2013. Claimant filed a request for hearing disputing the Department's action. At the hearing, the Department testified that Claimant's and his wife's MA coverage under the Ad-Care and MSP programs was continuing because Claimant had filed a timely hearing request. However, if the Ad-Care and MSP closures were affirmed, Claimant and his wife would be eligible for MA coverage with monthly \$1,291 deductibles. Although no Notice of Case Action regarding this coverage had been sent to Claimant, because of the timely hearing request, the Department presented all of the evidence concerning its calculation of the deductible. This Hearing Decision addresses the Ad-Care and MSP closure as well as the calculation of the monthly deductible.

It is noted that, in his hearing request, Claimant requested accommodations and testified on the record that his needs were accommodated at the hearing.

Closure of Ad-Care and MSP Cases

The income limit in February 2013, when the Department intended to close Claimant's Ad-Care and MSP cases, for a two-member MA fiscal group (which consisted of Claimant and his wife) was \$1,261 under the Ad-Care program and \$1,703 under MSP. BEM 163, p. 2; BEM 165, p. 6; BEM 211 (November 1, 2012), pp. 5-6; RFT 242 (May 1, 2012), p. 1.

In this case, the Department testified that Claimant's household's gross income consisted of Claimant's gross monthly Retirement, Survivors and Disability Insurance

(RSDI) income of \$1,150 and his wife's gross monthly RSDI income of \$733. Claimant and his wife verified the RSDI income amounts. The total of these income sources is \$1,883. Claimant's household's gross monthly unearned income of \$1,883 is reduced by a \$20 disregard, resulting in a net unearned income of \$1,863. See BEM 163 (October 1, 2010), p. 2; BEM 165 (October 1, 2010), p. 6; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 3.

Because Claimant's group's net income of \$1,863 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 and his wife's MA coverage under Ad-Care and Claimant's MSP coverage.

MA Deductible

The Department testified that, although Claimant and his wife were not eligible for full-coverage MA, they were each eligible for MA with a monthly \$1,291 deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels (PIL), which is 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.

The monthly PIL for an MA group size 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. If Claimant's group's net income is in excess of \$541, the group may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly income exceeds \$541. BEM 545 (July 1, 2011), p. 2.

In this case, at the hearing, the Department produced an SSI-Related MA budget to show how the deductible in Claimant's case was calculated. As discussed above, the net income for Claimant's group totaled \$1,863. BEM 541 (January 1, 2011), p. 3. The Department did not consider any deductions. However, a deduction was due to Claimant based the \$104.90 Medicare Part B premium that would be deducted from his RSDI income once his MSP case closed. See BEM 544, p. 1. Thus, the Department did not act in accordance with Department policy when it failed to deduct this amount from Claimant's net income and to determine Claimant's and his wife'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 acted in accordance with Department policy when it closed Claimant's and his wife's Ad-Care and MSP cases but did not act in accordance with Department policy when it calculated the monthly deductible. Accordingly, the Department's decision is **AFFIRMED IN PART**

with respect to closure of the Ad-Care and MSP cases and REVERSED IN PART with respect to calculation of the monthly MA 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 and his wife's MA deductible in accordance with Department policy and consistent with this Hearing Decision;
2. Provide Claimant and his wife with MA coverage they are eligible to receive from the date they are eligible to receive such coverage in accordance with Department policy; 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: May 1, 2013

Date Mailed: May 2, 2013

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

2013-24914/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

