

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201312770
Issue No: 2026
Case No: [REDACTED]
Hearing Date: April 10, 2013
County: Saginaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on November 7, 2012. After due notice, a telephone hearing was held on April 10, 2012. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant) and [REDACTED] [REDACTED], [REDACTED] (Claimant's spouse). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

Whether the Department properly determined Claimant's eligibility for Medical Assistance (MA) and MA deductible amount?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving MA benefits.
2. On August 23, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which indicated that effective October 1, 2012; Claimant's spouse would be approved for a MA-Group 2 deductible in the amount of \$831.00.
3. On November 7, 2012, Claimant submitted a hearing request (DHS-18) to challenge the Department's decision regarding the "spend-down program with Medicaid." In the hearing request, Claimant indicated that her income had not changed prior to the spend-down."

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The Department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) for FAP only, the current level of benefits or denial of expedited service. BAM 600.

Department policy further discusses the importance of conducting a prehearing conference. See BAM 600 pages 12 and 13. The policy provides that the Department must assure that clients receive the services and assistance to which they are entitled. BAM 600. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing. BAM 600.

When the Department conducts a prehearing conference, the Department must do all of the following: (1) determine why the client or authorized hearing representative is disputing the DHS action; (2) review any documentation the client or authorized hearing representative has to support his allegation; (3) explain the department's position and identify and discuss the differences; (4) determine whether the dispute can be resolved locally or requires MAHS to resolve; (5) mention to clients the availability of reimbursement for child care or transportation costs incurred in order to attend the hearing. BAM 600 p 13.

For each hearing not resolved at a prehearing conference, the Department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. BAM 600. The DHS-3050 narrative must include **all** of the following: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600.

Department workers who attend the hearings, are instructed to **always** include the following in planning the case presentation: (1) an explanation of the action(s) taken; (2) a summary of the policy or laws used to determine that the action taken was correct; (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BEM 600.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing (DHS-18) in the instant matter clearly concerns the Medical Assistance (MA) program which is summarized below.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Claimant specifically requested a hearing regarding the MA spend-down amount. According to policy, the fiscal group's monthly excess income is called a deductible or "spend down" amount. BEM 545. Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545. The Department will open active deductible cases on their computer system known as "Bridges" without ongoing Group 2 MA coverage as long as the fiscal group has excess income and at least one fiscal group member meets all other Group 2 MA eligibility factors. BEM 545.

A fiscal group is established for each person requesting MA (see BEM 211) and budgetable income is determined for each fiscal group member. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536.

For an MA recipient, a future month budget must be performed at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530. For an MA deductible client, a future month budget must be performed at redetermination and when a change occurs that may affect deductible status. BEM 530. Countable income is income remaining after applying MA policy in BEM 500. BEM 530.

In the instant matter, there is no dispute that Claimant requested a hearing to challenge the MA spend down amount of \$ [REDACTED]. Claimant also indicated that she never received a copy of the Notice of Case Action (DHS-18) indicating the spend-down amount. Claimant states that she was notified of the spend-down through the hospital. It is interesting to note that Claimant's request for hearing was submitted on a DHS-18 form rather than utilizing the Request for Hearing portion of the DHS-1605.

The Department, on the other hand, provided only limited information concerning Claimant's deductible. The Hearing Summary (DHS-3050) indicated that Claimant's spend down amount was based on the client's income. During the hearing, Claimant and her spouse testified that they both receive RSDI income. However, the Department failed to include any documents which showed Claimant's proper household income at the time. Although the Department did include a budget, verification of Claimant's income was not properly included in the record.

The Department's Hearing Summary (DHS-3050) does not comply with the requirements set forth in BAM 600 as it does not contain a clear statement of the case action or facts which led to the action. BAM 600. Rather, the DHS-3050 did not provide any insight regarding the basis for the Department's MA spend-down amount, which gives rise to Claimant's hearing request. During the hearing, the Department representative was unable to clearly and succinctly articulate the nature of the Department's actions giving rise to the request for a hearing.

Although the hearing packet was not devoid of records, none of the records buried within the papers effectively shed light on the precise issues in controversy nor did they explain the rationale behind the department's actions. For example, how did the department calculate Claimant's MA deductible amounts? The Department representative who participated in the hearing was unable to answer this question. The Department representative stated during the hearing that Claimant and her spouse had been receiving RSDI benefits, but the Department did not provide any documentation in the hearing packet to support this contention. The Department did not provide any SOLQs or equivalent documentation in the record.

The hearing packet also contained a Notice of Case Action and an SSI Related Medicaid Income Budget Results Bridges page; there were no supportive verification documentation to show how the department reached the MA deductible amount. The Department has failed to clearly communicate to this Administrative Law Judge the precise nature of the Department's actions. Based on the lack of documentation and the inability of the Department representative to sufficiently explain the Department action, this Administrative Law Judge is unable to make a reasoned, informed decision.

Accordingly, this Administrative Law Judge finds that the Department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the Department acted in accordance with policy in determining Claimant's MA eligibility and MA deductible amount.

Therefore, the Department's determination is **REVERSED**.

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

- Initiate a redetermination of Claimant's eligibility for MA benefits and conduct a comprehensive recalculation of Claimant's MA deductible amount.
- Of course, the Department shall communicate its findings with Claimant per policy.
- To the extent provided by policy, the department shall issue any retroactive benefits that Claimant is entitled to receive.

IS IT SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 16, 2013

Date Mailed: April 17, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

CAP/cr

cc:

