

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-49627
Issue Nos.: 2017, 2026
Case No.: [REDACTED]
Hearing Date: August 5, 2013
County: Oakland (63-02)

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 August 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly close Claimant's Medical Assistance (MA) coverage under the Ad-Care program and the Medicare Savings Plan (MSP)?
2. Did the Department properly provide Claimant with MA coverage subject to a monthly \$906 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. In a May 16, 2013, Notice of Case Action, the Department notified Claimant that, effective June 1, 2013 (i) her MA coverage under the Ad-Care program would close and she would receive MA coverage subject to a \$906 monthly deductible and (ii) her MSP case would close.
2. On May 22, 2013, Claimant filed a hearing request, disputing the Department's actions.

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.

In a May 16, 2013, Notice of Case Action, the Department notified Claimant that effective June 1, 2013, her MSP case and her Ad-Care cases would close and she would be eligible for MA coverage subject to a \$906 monthly deductible. Claimant requested a hearing disputing the Department's action.

Closure of Ad-Care and MSP Cases

The Ad-Care program provides full MA coverage to disabled clients who meet the net income limit. BEM 163 (October 1, 2010), p. 1. MSP benefits provide for the State's payment of a client's Medicare premiums, coinsurances, and deductibles, depending on the client's income eligibility. BEM 165 (May 1, 2013), pp. 1-2. At the hearing, the Department explained that Claimant was no longer eligible for MSP benefits and full-coverage MA under the Ad-Care program because her income exceeded the income limit applicable under those programs.

The Department provided an SSI-related MA budget showing the calculation of Claimant's net income for MA purposes. The budget shows Claimant had unearned income of \$872. Claimant confirmed that she received gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$872. The Department properly applied a \$20 unearned income disregard, resulting in Claimant's net unearned income of \$852. See BEM 541 (January 2011), p. 3.

The budget also showed earned income of \$989. Claimant disputed this calculation. The Department testified that in calculating Claimant's earned income, it considered the following pay identified on the Verification of Employment submitted by Claimant's employer: \$491.62 received on March 22, 2013; \$547.86 received on April 5, 2013; and \$444.97 received on April 19, 2013. When the amount of income a client receives from a source changes from month to month, the Department must prospect the client's income to estimate the income to be received by the client in a processing or future month. BEM 530 (October 2012), pp. 3-4. Prospecting income means arriving at a best estimate of the person's income. BEM 530, p. 4. Based on the identified payments, the Department properly estimated that Claimant's gross monthly earned income was \$989. A \$65 disregard plus ½ of the fiscal group's remaining earnings are applied to earned

income. BEM 541, p. 3; RFT 295 (October 2008). This results in net earned income of \$462, as reflected on the MA budget.

Claimant's net unearned income of \$852 plus her net earned income of \$462 result in total net income of \$1,314. The income limit under the Ad-Care program where there is one member in the MA fiscal group is \$958. BEM 163, p. 2; BEM 211 (November 2012), pp. 6-7; RFT 242 (April 2013), p. 1. The income limit for MSP eligibility for a one-member MA fiscal group is \$1,293. BEM 165, p. 6; RFT 242, p. 1. Because Claimant's net income of \$1,314 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

The Department testified that, although Claimant was not eligible for full-coverage MA, she was eligible for MA with a monthly \$906 deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (October 2010), p. 1; BEM 166 (October 2010), pp. 1-2; BEM 544, p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA fiscal group size of one living in Oakland County is \$408 per month. RFT 200 (July 2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$408, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly income exceeds \$408. BEM 545 (July 2011), p. 2.

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. As discussed above, Claimant's net income totaled \$1,314. BEM 530 (October 1, 2012), p. 1; BEM 541 (January 2011), p. 3. Because the Department closed Claimant's MSP case effective June 1, 2013, Claimant would be responsible for her Medicare Part B premiums beginning June 1, 2013. Claimant was eligible for a deduction from her net income in the amount of her Part B Medicare premium. BEM 544 (August 2008), p. 1. No deduction is reflected in the calculation of Claimant's deductible. Because the Department improperly excluded this deduction, the Department did not act in accordance with Department policy when it calculated Claimant's MA deductible.

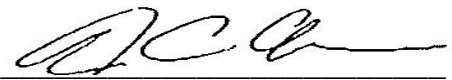
DECISION AND ORDER

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 Ad-Care and MSP cases but did not act in accordance with Department policy when it calculated her MA deductible.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the closure of Claimant's Ad-Care and MSP cases and REVERSED IN PART with respect to the Department's 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. Begin recalculating Claimant's MA deductible as of June 1, 2013, ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Provide Claimant with MA coverage she is eligible to receive from June 1, 2013, 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: August 15, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2013-49627/ACE

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

cc:

