

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

IN THE MATTER OF:

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Reg. No.: 2014-590
Issue No.: 2001
Case No.: ██████████
Hearing Date: December 9, 2013
County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
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ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case under the Transitional MA (TMA) program and provide him and his wife with MA coverage under the Group 2 Caretaker (G2C) program subject to a monthly \$116 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, his wife and their three children were ongoing recipients of MA coverage under the TMA program.
2. In connection with an MA redetermination, the Department recalculated Claimant's income and MA eligibility.
3. On September 3, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective October 1, 2013, his children would receive full-coverage MA under the Other Healthy Kids (OHK) program and he and his wife

would receive MA coverage subject to a monthly \$116 deductible under the G2C program.

4. On September 19, 2013, Claimant filed a request for hearing 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, the evidence at the hearing established that, effective September 30, 2013, the Department closed Claimant's MA case under the TMA program and opened full-coverage MA cases for the children under the OHK program and MA coverage under the G2C program for Claimant and his wife, with coverage subject to a monthly \$116 deductible. Claimant requested a hearing to dispute the deductible coverage.

TMA Coverage

The first issue presented is whether the Department properly closed Claimant's and his wife's MA coverage under the TMA program. Department policy provides that families may receive TMA for up to 12 months when ineligibility for Low Income Family (LIF) MA coverage relates to income from employment of a caretaker. BEM 111 (July 2013), p. 1. TMA eligibility continues until the end of the 12-month TMA period unless (i) FIP is approved, or (ii) a change is reported (such as decreased income) and the family is eligible for LIF, or (iii) information is reported for an individual member indicating that the member does not meet the MA requirements under BEM 220 (residence), BEM 255 (child support reporting obligations), BEM 257 (pursuing third party resource liability), or BEM 265 (institutional status). BEM 111, p. 2.

In this case, the Department presented an eligibility summary that showed that Claimant's TMA coverage began January 1, 2013. Although the eligibility summary showed that the household received MA coverage under the LIF program until October 31, 2012, Department policy provides that TMA starts the month in which ineligibility for LIF began regardless of when the LIF eligibility actually ended. BEM 111, p. 1. Because LIF ineligibility began October 31, 2012, TMA coverage should have started November 1, 2012. Because the Department converted Claimant's MA coverage from TMA to G2C with a deductible effective October 1, 2013, the household received TMA coverage only 11 months. Because TMA coverage continues for 12 months (except for

circumstances not applicable to this case), the Department did not act in accordance with Department policy when it prematurely converted Claimant's and his wife's MA coverage to a deductible case one month before the 12-month TMA eligibility period expired.

G2C Coverage with a Deductible

Also at issue was the calculation of the \$116 monthly deductible once the TMA coverage period expired. 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 (July 2013), p. 1; BEM 135 (July 2013), p. 3; BEM 544 (July 2013), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA fiscal group size of two (Claimant and his wife) living in Wayne County is \$500. RFT 200 (2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$500, he and his wife may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$500. BEM 545, p. 2.

The Department testified that, based on Claimant's self-employment income, Claimant and his wife were eligible for Group 2 Caretaker (G2C) coverage with a monthly \$116 deductible. The Department presented a G2 FIP-related MA budget showing the calculation of Claimant's net income and deductible. In calculating Claimant's self-employment income, the Department relied on the income Claimant reported for May 2013, June 2013, and July 2013 and concluded that Claimant had average monthly self-employment income of \$1,740.53. Claimant acknowledged that his total proceeds from self-employment were \$1,740.53, but contended that the Department failed to take into consideration his expenses in calculating his income.

The amount of self-employment income before any deductions is called total proceeds. BEM 502 (July 2013), p. 3. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. BEM 502, p. 3. Allowable expenses are the higher of (i) 25 percent of the total proceeds or (ii) actual expenses if the client chooses to claim and verify the expenses.

In this case, Claimant verified expenses as follows: \$285 in monthly dispatch fees for the months May 2013, June 2013, and July 2013, and \$273.19 in gas/fuel expenses for the month of July 2013. Based on the MA budget presented, the Department considered Claimant's expenses for the monthly dispatch fee and the gas (which totaled more than 25% of the monthly total proceeds), and deducted the total of these expenses (\$558.19) from Claimant's total proceeds of \$1,740.53, resulting in \$1,182.34 in total countable income from self-employment. Therefore, although the Department did not reference Claimant's expenses in its hearing summary, it acted in accordance with Department policy when it considered those expenses in calculating the deductible.

In calculating Claimant's total net income for MA purposes, the Department must deduct \$90 from the countable earnings of each fiscal group member with earnings. BEM 536

(July 2013), p. 1. This would bring Claimant's total net income to \$1,092. Based on this net income and in consideration of Claimant's household consisting of his wife and three minor children, the Department calculated Claimant's *pro rata* share of his income as \$158 in accordance with Department policy. BEM 536, p. 4. Claimant's and his wife's share of the group's net income is \$616. See BEM 536, pp. 6-7. Claimant did not present any evidence showing that he was eligible for any further allowable needs deductions to this income. See BEM 544, p. 1. Because \$616 exceeds the \$500 PIL by \$116, the Department acted in accordance with Department policy when it concluded that Claimant and his wife are eligible for MA coverage subject to a \$116 monthly deductible.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it prematurely closed Claimant's TMA case but did act in accordance with Department policy when it calculated the \$161 monthly deductible for Claimant and his wife once eligible for G2C coverage effective November 1, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to calculation of Claimant's and his wife's monthly \$116 MA deductible for November 1, 2013, ongoing and **REVERSED IN PART** with respect to closure of Claimant's and his wife's TMA coverage for October 2013.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Activate MA coverage under the TMA program for Claimant and his wife for October 2013.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 18, 2013

Date Mailed: December 18, 2013

NOTICE OF APPEAL: 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.

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).

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

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]