

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201320349
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: May 8, 2013
County: Oakland (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 May 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Supervisor.

ISSUE

Did the Department properly approve Claimant's Medical Assistance (MA) application for coverage with a \$539 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. On October 12, 2012, Claimant applied for MA coverage.
2. The Department approved Claimant's application for MA coverage with a \$539 monthly deductible.
3. On December 11, 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 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, the Department did not provide a Notice of Case Action concerning the action at issue in this case. Claimant's request for hearing concerning his MA deductible referenced a November 14, 2012 Notice of Case Action, presumably the Notice Claimant was sent advising him that he was approved for MA coverage with a monthly deductible.

The Department testified that, although Claimant was not eligible for full-coverage MA, he was eligible for MA with a monthly \$553 deductible at the time his application was approved. Budgets provided by the Department showed that Claimant was actually approved for MA coverage with a monthly \$539 deductible, but that his deductible subsequently increased to \$553. At the time Claimant filed his hearing request on December 11, 2012, the \$539 deductible was applicable. Therefore, for purposes of this Hearing Decision, the budget resulting in the \$539 deductible is reviewed.

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 one (Claimant) living in Oakland County is \$408 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1. If Claimant's net income is in excess of \$408, he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$408. BEM 545 (July 1, 2011), p 2.

In this case, the SSI-Related MA budget for Claimant for December 2012 shows the calculation of the \$539 deductible. In determining a client's net income for MA purposes, the Department reduces the client's gross monthly unearned income by a \$20 disregard and by the client's Medicare Part B premium. BEM 503 (October 1, 2012), p 1; see also BEM 530 (December 1, 2012); BEM 541 (January 1, 2011), p 3; BEM 544 (August 1, 2008), p 1.

In this case, the budget shows that Claimant's unearned income was \$1067. Although Claimant testified that he received \$1067 in monthly Retirement, Survivors and Disability Insurance (RSDI) income in December 2012, the Department testified that

Claimant received monthly RSDI income of \$1186. However, the information provided in the SOLQ (Single Online Query), the Department's data exchange with the Social Security Administration (SSA), shows that Claimant's RSDI income was \$1167 in December 2012, consistent with Claimant's written statement in his hearing request. Because the Department did not provide any evidence concerning the use of \$1067 for the unearned income for December 2012, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated the deductible applicable at the time of application.

At the hearing, Claimant also testified that he had monthly home health care expenses. Personal care services 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, those expenses are allowable medical expenses and the Department must consider whether such 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 exists for the month and is ongoing unless the Department projects a change. BEM 545, pp 1, 3.

In this case, the Department did not consider Claimant's home health care expenses in determining his ongoing income eligibility for MA coverage. Although Claimant's testimony at the hearing was that his personal service expenses were \$600 monthly, in his request for hearing, he indicated that he incurred \$400 in monthly personal service expenses. The evidence at the hearing did not establish whether Claimant identified these expenses in his application. However, they were not referenced in the December 2012 budget. Under the facts in this case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not consider the personal care expenses in determining Claimant's ongoing income eligibility.

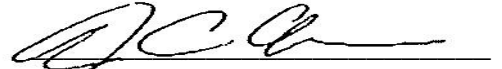
DECISION AND ORDER

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 not satisfy its burden of showing that it acted in accordance with Department policy when it provided Claimant with MA coverage with a monthly \$539 deductible effective December 2012. Accordingly, the Department's decision is REVERSED.

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 effective December 1, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision;

2. Provide Claimant with MA coverage he is eligible to receive from December 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: 5/20/2013

Date Mailed: 5/20/2013

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

ACE/hw

cc:

