

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-40208
Issue Nos.: 2026, 5020
Case No.: [REDACTED]
Hearing Date: August 26, 2013
County: Wayne (82-57)

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 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$959 deductible?
2. Did the Department properly process Claimant's March 21, 2013, application for State Emergency Relief (SER) assistance with energy or utility service(s)?

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 benefits.
2. On March 21, 2013, Claimant applied for SER assistance with energy services.
3. On March 25, 2013, the Department sent Claimant a Notice of Case Action, notifying her that her MA monthly deductible was \$959 for May 1, 2013, ongoing.

4. On March 26, 2013, the Department sent Claimant an SER Decision Notice, notifying her that her SER application was denied because her countable income exceeded the maximum allowed under the program.
5. On April 4, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her MA case and her SER application.

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.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Code, Rules 400.7001 through 400.7049.

Additionally, Claimant requested a hearing disputing the Department's actions concerning her MA case and the denial of her SER application.

MA Case

Although Claimant did not specify her concerns regarding her MA case in her hearing request, her hearing request was tied to the March 25, 2013, Notice of Case Action notifying her that her monthly MA deductible was increasing to \$959 effective May 1, 2013. Therefore, the Department's calculation of Claimant's MA deductible was addressed at the hearing.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA protected income levels (PIL) based on their shelter area and fiscal group size are eligible for MA coverage under the deductible program, with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group of one (Claimant) living in Wayne County is \$375. BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Claimant's MA coverage is subject to a deductible if her monthly net income, based on her gross income, is greater than \$375.

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. Claimant confirmed that her monthly gross income consisted of her \$1,195 in Retirement, Survivors and Disability Insurance (RSDI) benefits and \$264 in pension benefits. Thus, the Department properly concluded that Claimant's gross income was \$1,459. This amount is reduced by a \$20 disregard, resulting in a net unearned income of \$1,439. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 3.

The Department properly deducted Claimant's monthly \$104.90 Part B Medicare premium from Claimant's net income. BEM 544 (August 2008), p. 1. Claimant's testimony at the hearing established that she was not eligible for any further deductions from her net unearned income. See BEM 544, pp. 1-2. Therefore, Claimant's net income for MA purposes was \$1,334. Because Claimant's net income of \$1,334 exceeded the \$375 protected income level (PIL) applicable to her by \$959, Claimant was eligible for MA coverage with a \$959 monthly deductible. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's MA monthly deductible.

Denial of SER Application

In a March 26, 2013, SER Decision Notice, the Department denied Claimant's March 21, 2013, SER application for assistance with gas and electric payments because her countable income exceeded the income limit for the program.

For a group to be eligible for energy services, the combined monthly *net* income that is received or expected to be received by all SER group members in the 30-day countable income period cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (March 2013), p. 1. For a group size of one, Claimant's group size, the applicable income limit is \$1,397. ERM 208, p. 6. If Claimant's income during the 30-day countable income period exceeds this limit, the SER request must be denied. ERM 208, p. 4.

The 30-day countable income period begins on the date the local office received a signed application for SER. ERM 206 (March 2013), p. 1. Because Claimant submitted her SER application on March 21, 2013, the Department was required to consider Claimant's net countable income for the period from March 21, 2013, through April 20, 2013.

In calculating Claimant's income eligibility, the Department must consider *net* RSDI benefits received. ERM 206 (March 2013), p. 1. In this case, Claimant's net RSDI benefits were \$1,090 (her gross \$1,195 in RSDI benefits less the \$104.90 Medicare Part B premium that was deducted from her gross proceeds). Claimant receives monthly \$264 in pension benefits and testified that there were no deductions to this income. Thus, Claimant's total net unearned income is \$1,354. Because Claimant's net income of \$1,354 is below the \$1,397 income limit for SER energy services, the

Department did not act in accordance with Department policy when it denied Claimant's SER application for excess income.

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 calculated Claimant's MA deductible but did not act in accordance with Department policy when it denied Claimant's SER application.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the calculation of Claimant's MA deductible and REVERSED IN PART with respect to the denial of the SER application.

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

1. Reregister Claimant's March 21, 2013, SER application for assistance with energy services;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with SER assistance she is eligible to receive, in accordance with Department policy; and
4. 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 28, 2013

Date Mailed: August 29, 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

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:

