

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-42652
Issue No.: 2026
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Medical Assistance (MA) coverage under the Group 2 Caretaker Relatives coverage with a monthly \$379 deductible for May 1, 2013, ongoing?

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 April 11, 2013, the Department sent Claimant a Notice of Case Action advising her that, effective May 1, 2013, she would receive MA coverage each with a monthly \$379 deductible. Exhibit 1.
3. On April 16, 2013, Claimant filed a hearing request, disputing the Department's action. Exhibit 1.

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 this case, Claimant was an ongoing recipient of MA benefits. On April 11, 2013, the Department sent Claimant a Notice of Case Action advising her that, effective May 1, 2013, she would receive MA coverage each with a monthly \$379 deductible. Exhibit 1.

The Department provided a copy of Claimant's MA budget showing the calculation of Claimant's deductible for May 2013. Exhibit 1. The Department testified that Claimant's income budget was \$1,429 monthly. Moreover, the budget indicated an adult's share of adult's own income of \$754. See Exhibit 1. The Department was unable to testify how it calculated that amount.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (February 2013), p. 28. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 28. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 28. 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, p. 30.

At the hearing, Claimant testified her monthly gross income can range from \$1,200 to \$1,400. Moreover, Claimant testified that she is paid bi-weekly, paid \$10/hour, and works 35-40 hours a week. Claimant was disputing both her deductible and how the Department calculated the deductible based on her income. The Department was unable to provide any paystubs or testimony on how it specifically calculated Claimant's income.

Based on the foregoing information and evidence, the Department did not satisfy its burden showing that it acted in accordance with Department policy as to the MA deductible calculation for May 1, 2013, ongoing. The Department could not credibly testify or present evidence on how 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 did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Initiate verification of Claimant's income;
2. Begin recalculating the MA budget for May 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from May 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 7, 2013

Date Mailed: August 7, 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

EJF/cl

cc: [REDACTED]
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[REDACTED]
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