

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-49415
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Wayne (82-76)

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 1, 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

Did the Department properly provide Claimant Medical Assistance (MA) coverage subject to a \$495 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 May 16, 2013, Claimant applied for MA.
2. On May 20, 2013, the Department sent Claimant a Notice of Case Action approving his application and providing him with MA coverage effective May 1, 2013, subject to a monthly \$495 deductible.
3. On May 24, 2013, 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, Claimant requested a hearing disputing the Department's calculation of his MA deductible.

The Department concluded that, based on his income, Claimant was eligible for MA with a monthly \$495 deductible. The Department produced an SSI-Related MA budget showing that the calculation of Claimant's deductible was based on Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$995, which Claimant verified. However, while Claimant's SOLQ report, the Department's interface with the Social Security Administration, shows that Claimant received gross monthly RSDI benefits of \$995, a review of the SOLQ shows a discrepancy that the Department could not explain; after a deduction for Claimant's \$104.50 Part B Medicare premium is taken, Claimant's net income on the SOLQ is identified as \$805.50, leaving \$85.60 in RSDI benefits that were not paid to Claimant and not explained in the SOLQ.

For MA purposes, the Department considers the gross RSDI benefit amount as unearned income. BEM 503 (May 2013), p. 21. Gross income includes amounts withheld from income which are voluntary, to repay a debt, or to meet a legal obligation. BEM 500 (January 2013), p. 3. However, amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income and should be excluded as income unless the overpayment amounts were excluded income when received. BEM 500, p. 4. In this case, it is unclear whether the \$84.50 unaccounted RSDI benefit which was not paid to Claimant was due to an overpayment recouped by SSA, which may result in the amount being excluded from the calculation of Claimant's gross income, or another deduction which is not excluded from gross income calculation. When the Department is unable to reconcile discrepant information, it must send the DHS-3471, DHS/SSA Referral, to the SSA district office serving the local Department office. BAM 801 (December 2011), p. 2. In this case, because it is unclear whether \$84.50 should have been excluded from Claimant's gross monthly RSDI benefits of \$995, the Department failed to satisfy its burden of showing that it calculated Claimant's MA eligibility and deductible in accordance with Department policy.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's monthly MA deductible.

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 eligibility and deductible amount, if any, effective May 1, 2013, after verifying Claimant's RSDI income in accordance with Department policy and consistent with this Hearing Decision;
2. Provide Claimant with MA coverage he is eligible to receive from May 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 12, 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.

2013-49415/ACE

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:

