

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-56384
Issue Nos.: 2006, 2026
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Wayne (82-17)

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 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Did the Department properly close Claimant's Medical Assistance (MA) case for failure to comply with child reporting obligations?
2. Did the Department properly provide Claimant's wife with MA coverage subject to a monthly \$213 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 and his wife were ongoing recipients of MA coverage.
2. On June 20, 2013, the Department sent Claimant a Notice of Case Action notifying him that (1) his MA case would close for failure to comply with child support reporting obligations and (2) his wife was eligible for MA subject to a monthly \$213 deductible.

3. On June 27, 2013, Claimant filed a hearing request disputing the Department's action concerning his MA case and specifically indicating that he had no child support issue and that they could not afford his wife's deductible.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and 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 failed to include the relevant Notice of Case Action for this case with the hearing packet. In fact, the Department initially denied that a June 20, 2013, Notice of Case Action was sent to Claimant, even though Claimant's hearing request referenced a June 20, 2013, Notice of Case Action. During the course of the hearing, Claimant produced a copy of the June 20, 2013 Notice. Although the Department was asked to send a copy of the Notice after the hearing to be included with the hearing exhibits, the Department failed to do so. During the hearing, the Department confirmed that, based on the Notice Claimant provided at the hearing, the Department sent Claimant a June 20, 2013, Notice of Case Action which closed Claimant's MA case because he had failed to comply with child support reporting obligations and made his wife's MA coverage subject to a monthly \$213 deductible. The closure of Claimant's MA case and the calculation of his wife's MA deductible are considered in this Hearing Decision.

Although Claimant was also concerned about an August 2013 Notice of Case Action affecting his and his wife's MA cases, because that Notice was sent after Claimant's June 27, 2013, request for hearing, it was not considered at the hearing. Claimant was advised to request another hearing if he wished to contest the Department's actions in that Notice.

Closure of Claimant's MA Case

At the hearing, the Department alleged that the child support issue had been resolved and contended that it was not an issue for the hearing. However, the Department failed to present any evidence to show how or when the issue was resolved. In particular, the Department failed to show that Claimant had received ongoing, uninterrupted MA coverage and was not aggrieved by the Department's actions concerning his MA case as of the date Claimant filed his hearing request. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's MA case.

Calculation of Wife's Deductible

The June 20, 2013, Notice of Case Action indicated that Claimant's wife's MA coverage under the Group 2 Caretaker (G2C) program was subject to a monthly \$213 MA deductible. 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 two (Claimant and his wife) living in [REDACTED] is \$500 per month. BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Claimant's wife's MA coverage is subject to a deductible if her monthly net income, based on her and Claimant's gross income, is greater than \$500.

The Department provided a G2-FIP-related MA budget showing the calculation of Claimant's wife's deductible. At the hearing, the Department testified that it based the calculation of the deductible on Claimant's gross monthly earned income of \$1,540. To calculate this earned income, the Department used information on the Verification of Employment form completed by Claimant's employer showing that Claimant received \$11 per hour for 30 to 35 hours of employment and Claimant's paystub that showed he worked 70 hours biweekly. Thus, Claimant's paystub supported the Department's use of 70 hours of biweekly employment. See BEM (October 2012), p. 3. Based on 70 hours of biweekly employment, at \$11 per hour, the Department calculated Claimant's gross monthly income of \$1,540 in accordance with Department policy. BEM 530, pp. 2-3.

In calculating Claimant's total net income, the Department must deduct \$90 from the countable earnings of each fiscal group member with earnings. BEM 536 (January 2010), p. 1. This would bring Claimant's total net income to \$1,450. During the hearing, the Department testified that Claimant and his family had been receiving Low-Income Family (LIF) MA coverage. If a client received FIP or LIF in at least one of the four calendar months preceding the month being tested, the client is also eligible for an income deduction of \$30 plus 1/3 of the remaining earned income. BEM 536, p. 1. This would leave Claimant with a net monthly income of \$946. A review of the MA budget, taking into consideration this net monthly income and the fact that Claimant's wife has four minor children as well as her husband, Claimant, in her household, shows that the Department did not grant the FIP/LIF deduction in calculating Claimant's net income. Because it was unclear whether Claimant had received FIP or LIF in any of the four months prior to the calculation of the deductible, the Department failed to satisfy its burden of showing that it calculated Claimant's wife's 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 did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case and calculated his wife's MA deductible.

Accordingly, the Department's MA 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. Reinstate Claimant's MA case as of the effective date of closure as indicated on the June 20, 2013, Notice of Case Action;
2. Begin recalculating Claimant's wife's MA deductible for June 1, 2013, ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with the MA coverage he is eligible to receive from the date of reinstatement;
4. Provide Claimant's wife with the MA coverage she is eligible to receive from June 1, 2013, ongoing; and
5. Notify Claimant in writing of the recalculated deductible in accordance with Department policy.



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

Date Signed: August 27, 2013

Date Mailed: August 27, 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:

