

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

IN THE MATTER OF:

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

Reg. No.: 2014-32919
Issue No(s): 2001; 2007; 3008
Case No.: ██████████
Hearing Date: April 17, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR)/████████████████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager, and ██████████, Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

Did the Department properly deny Claimant's MA benefits effective February 1, 2014, ongoing?

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on January 16, 2014?

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 is an ongoing recipient of FAP benefits. See Exhibit 2.
2. Claimant was an ongoing recipient of MA benefits. See Exhibit 1.

3. From February 2013 to December 2013, Claimant received MA - Group 2 Spend-Down (G2S) coverage with an \$823 monthly deductible. See Exhibit 1.
4. On December 12, 2013, Claimant previously requested a hearing in which he disputed the calculation of his MA deductible (See Reg #2014-17959). See Exhibit 2.
5. A previous hearing was held in which the Administrative Law Judge (ALJ) issued a D&O that ordered the Department to recalculate Claimant's MA deductible for January 1, 2014, ongoing; process Claimant's medical expenses and apply them towards Claimant's deductible in accordance with Department policy; and notify Claimant of its decision in writing in accordance with Department policy (Reg #2014-17959). See Exhibit 2.
6. For January 2014, Claimant received MA – G2S coverage with an \$848 monthly deductible. See Exhibit 1.
7. On January 2, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective February 1, 2014, ongoing, due to him not meeting his deductible in at least one of the last three months. See Exhibit 1.
8. On January 27, 2014, the Department sent an Administrative Hearing Order Certification (DHS-1843), which stated that it certified the actions contained in the D&O. See Exhibit 2.
9. Effective March 1, 2014, ongoing, Claimant received \$15 in FAP benefits. See Exhibit 2.
10. On March 17, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to comply with the previous D&O, disputing the MA denial, and the FAP allotment. See 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Previous Administrative Hearing

G2S is an SSI-related category. BEM 166 (July 2013), p. 1. MA is available to a person who is aged (65 or older), blind or disabled. BEM 166, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 166, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs. BEM 166, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 166, p. 2.

On December 12, 2013, Claimant previously requested a hearing in which he disputed the calculation of his MA deductible (See Reg #2014-17959). See Exhibit 2. A previous hearing was held in which the ALJ sent a D&O that it ordered the Department to recalculate Claimant's MA deductible for January 1, 2014, ongoing; process Claimant's medical expenses and apply them towards Claimant's deductible in accordance with Department policy; and Notify Claimant of its decision in writing in accordance with Department policy (Reg #2014-17959). See Exhibit 2. On March 17, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to comply with the previous D&O. See Exhibit 1.

At the hearing, the Department testified that it complied with the previous D&O. A review with the previous decision found that the ALJ conducted an MA deductible budget analysis. See Exhibit 2. Furthermore, the ALJ determined that Claimant submitted medical expenses and it should have been processed towards the deductible. See Exhibit 2. As such, the ALJ ordered the Department to recalculate and process Claimant's medical expenses and apply them towards the deductible. See Exhibit 2. During the hearing, the Department testified that it received submitted medical expenses on January 10, 2014. The Department testified that many of the expenses were old bills that have already been entered into the medical budget. See Hearing Summary, Exhibit 1.

Moreover, the Department testified that approximately \$270 of the submitted medical expenses was valid. For January 2014, Claimant received MA – G2S coverage with an \$848 monthly deductible. See Exhibit 1. The Department testified that Claimant's submitted medical expense of \$270 did not meet the \$848 deductible. Therefore, on January 27, 2014, the Department sent an Administrative Hearing Order Certification (DHS-1843), which stated that it certified the actions contained in the D&O. See Exhibit 2. In essence, the Department argued that the MA budget did not have to be recalculated because Claimant's submitted medical expenses still did not meet the \$848 deductible.

Claimant's AHR testified, though, that she submitted approximately \$300 - \$400 in medical expenses in January 2014. Claimant's AHR also testified that she submitted additional medical expenses three separate times on behalf of the Claimant.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2013), p. 10. Each calendar month is a separate deductible period. BEM 545, p. 10. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11. The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BEM 545, p. 11. BAM 130 explains verification and timeliness standards. BEM 545, p. 11.

Based on the foregoing information and evidence, the Department properly calculated Claimant's MA deductible effective January 1, 2014, ongoing. Claimant's AHR testified that she submitted approximately \$300 - \$400 in medical expenses in January 2014. However, the submitted medical expenses still do not meet the deductible amount of \$848. As such, Claimant did not meet his deductible amount for January 2014, ongoing, because the allowable medical expenses did not equal or exceed the deductible amount for the calendar month tested. BEM 166, p. 2 and BEM 545, pp. 10-11. Therefore, the Department properly implemented and certified the previous D&O regarding an administrative hearing held on January 16, 2014 (Reg. #2014-17959). See BAM 600 (July 2013), pp. 38-39.

MA closure

The Department redetermines eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. BEM 545, p. 11.

If a group has not met its deductible in at least one of the three calendar months before that month and none of the members are QMB, SLM or ALM eligible, the Department will automatically notify the group of closure. BEM 545, p. 11.

The Department will close an active deductible case when any of the following occur:

- No one in the group meets all nonfinancial eligibility factors.
- Countable assets exceed the asset limit.
- The group fails to provide needed information or verification.
Exception: Do not close the case just because the group fails to verify sufficient allowable medical expenses to meet its deductible.
 - The group does not return the redetermination form.
 - You cannot locate any of the group members.

BEM 545, p. 13. The Department uses adequate notice to close the case. BEM 545, p. 13.

Claimant was an ongoing recipient of MA benefits. See Exhibit 1. From February 2013 to December 2013, Claimant received MA – G2S coverage with an \$823 monthly deductible. See Exhibit 1. For January 2014, Claimant received MA – G2S coverage with an \$848 monthly deductible. See Exhibit 1. At the hearing, the Department testified that Claimant did not meet his deductible from October 2013 to December 2013. Thus, on January 2, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective February 1, 2014, ongoing, due to his not meeting his deductible in at least one of the last three months. See Exhibit 1.

At the hearing, Claimant's AHR testified that she would submit medical bills on behalf of the Claimant once a month. Moreover, in the time period above (October 2013 to December 2013), Claimant's AHR testified that the medical expenses were below \$800. It should be noted that Claimant's AHR did not have any medical expenses to present at the time of hearing.

Based on the foregoing information and evidence, the Department properly denied Claimant's MA benefits effective February 1, 2014, ongoing, in accordance with Department policy. Claimant's AHR's testimony indicated that the medical bills were below the \$823 medical deductible from October 2013 to December 2013. Moreover, Claimant's AHR failed to present any medical expenses submitted during this time period. As such, the Department acted in accordance with Department policy when it properly denied Claimant's MA benefits effective February 1, 2014, ongoing, due to his not meeting his deductible in at least one of the last three months. BEM 545, pp. 11-13.

FAP benefits

Claimant is an ongoing recipient of FAP benefits. See Exhibit 2. Effective March 1, 2014, ongoing, Claimant received \$15 in FAP benefits. See Exhibit 2. At the hearing, Claimant's AHR was also disputing the calculation of Claimant's FAP allotment. However, the Department failed to present any FAP budgets in order to determine if the calculation is proper. Claimant's AHR testified that she is disputing the FAP allotment for March 2014.

The local office and client or AHR 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 (March 2014), p. 36. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600, p. 36. 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. 39.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective March 1, 2014, ongoing. The Department

failed to present any FAP budgets during the hearing in order to determine if the calculations are proper. As such, the Department will recalculate Claimant's FAP benefits in accordance with Department policy.

It should be noted that Claimant's AHR testified during the hearing that in January 2014, she submitted a change report regarding group composition. Claimant's AHR testified that she and her daughter moved in with the Claimant and therefore, the group composition increased from one to three. Claimant's AHR inferred that the Department failed to act on the report change (member add). See BAM 105 (January 2014), p. 10 and BEM 212 (February 2014), p. 9. Also, a review of the Eligibility Summary indicated only a group composition of one. See Exhibit 2. Moreover, the Department submitted as evidence the alleged change report. See Exhibit 2. However, the change report was dated March 20, 2014, which indicated the new address. See Exhibit 2. This change report did not occur in January 2014, but in March 2014. This hearing lacks the jurisdiction to address the change report as it occurred subsequent to Claimant's hearing request (dated March 14, 2014). Therefore, this hearing will not address Claimant's dispute with the change report (member add) for lack of jurisdiction. See BAM 600, pp. 4-6.

DECISION AND ORDER

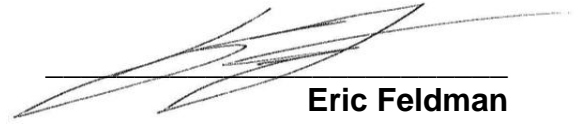
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) acted in accordance with Department policy when it properly calculated Claimant's MA benefits/deductible effective January 1, 2014, ongoing; (ii) it properly implemented and certified the previous D&O regarding an administrative hearing held on January 16, 2014 (Reg. #2014-17959); (iii) it properly denied Claimant's MA benefits effective February 1, 2014, ongoing; and (iv) it failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective March 1, 2014, ongoing. It is also ordered that this hearing decision will not address Claimant's dispute with the change report (member add) for lack of jurisdiction. See BAM 600, pp. 4-6.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to MA deductible for January 2014, ongoing; D&O from the previous administrative hearing (See Reg. #2014-17959); and MA denial for February 2014, ongoing, and REVERSED IN PART with respect to the FAP allotment effective March 1, 2014, ongoing.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating the FAP budget for March 1, 2014, ongoing, in accordance with Department policy;

2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

Date Signed: April 23, 2014

Date Mailed: April 23, 2014

NOTICE OF APPEAL: 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.

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).

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]