

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-008862
Issue No.: 1000; 2000; 2007; 5000
Case No.: ██████████
Hearing Date: November 12, 2014
County: WAYNE-DISTRICT 57
(CONNER)

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 November 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Manager/Hearings Facilitator; and ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible in the amount of \$1,172 effective May 2014 to July 2014?

Did the Department properly apply Claimant's medical bills to her 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. Claimant is an ongoing recipient of MA benefits. See Exhibit 3, p. 3.
2. Claimant's monthly MA deductible was \$1,172 for May 2014 to July 2014. See Exhibit 3, p. 3.
3. Claimant receives gross \$1,697 in monthly Retirement, Survivors, and Disability Insurance (RSDI) income. See Exhibit 3, pp. 4-6.

4. On July 25, 2014, Claimant filed a hearing request, protesting her MA benefits, Food Assistance Program (FAP) benefits, and State Emergency Relief (SER) benefits. See Exhibit 1, pp. 2-3.
5. On August 28, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on September 10, 2014.
6. On September 12, 2014, the Administrative Law Judge/Manager sent Claimant an Order of Dismissal.
7. On or around October 20, 2014, Claimant requested an order to vacate the dismissal.
8. On October 22, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
9. On October 28, 2014, MAHS sent Claimant a Notice of Hearing, which re-scheduled her for a hearing on November 12, 2014.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Preliminary matters

First, Claimant also requested a hearing disputing her FAP and SER benefits. See Exhibit 1, pp. 2-3. Shortly after commencement of the hearing, Claimant indicated that she is no longer disputing her FAP and SER benefits. As such, Claimant's FAP and SER hearing request is DISMISSED.

Second, on August 5, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that she is not eligible for MA (possibly Healthy Michigan Plan) benefits effective July 1, 2014, due to excess income. See Exhibit 3, pp. 8-10. Claimant testified that she wanted to dispute this denial. However, this hearing lacks the jurisdiction to address the determination notice dated August 5, 2014 because it is subsequent to Claimant's hearing request dated July 25, 2014. See BAM 600 (July 2014), pp. 4-6. As such, this ALJ will not address Claimant's MA denial for lack of jurisdiction. It should be noted that the Department testified during the hearing the denial notice date was August 4, 2014, nevertheless, it occurred subsequent to the hearing request.

Third, Claimant argued that the Department failed to process medical expenses in which she incurred towards her MA deductible. However, Claimant's testimony failed to indicate if she did indeed submit the medical expenses before her hearing request. In fact, Claimant's hearing request failed to indicate if she was disputing her medical expenses. The only time Claimant mentioned a dispute with her bills was her request to vacate the order, but that was submitted after her hearing request. The Department testified that Claimant's case file contained two stacks of medical bills. The Department testified the first stack of medical bills had a stamp date of July 28, 2014 and the second stack did not have a stamp date. The Department submitted all of the medical bills as Exhibit 2 for the record. See Exhibit 2, pp. 1-50. The Department testified that it did review all of the submitted medical bills subsequent to the hearing request and determined that all of the bills were old, duplicative, not applicable, or they did not meet the deductible. The statements' dates ranged from on or around December 2013 to June 2014. See Exhibit 2, pp. 1-50.

Based on the above information, this hearing lacks the jurisdiction to address Claimant's medical expense dispute because it occurred subsequent to her hearing request. See BAM 600, pp. 4-6. First, Claimant's testimony failed to indicate if she properly submitted the medical expenses before her hearing request. Second, Claimant's hearing request failed to specify her dispute with the Department's failure to process the medical expenses she incurred. Third, the evidence presented that the Department received the medical expenses incurred (Exhibit 2) subsequent to her hearing request. As such, this ALJ will not address if whether the Department failed to process Claimant's medical expenses for lack of jurisdiction. See BAM 600, pp. 4-6.

Fourth, Claimant testified she had additional medical bills in which she attempted to submit to the Department on or around September 2014 to October 2014, but alleged

the Department refused to accept them. In fact, Claimant had the medical bills present with her at the hearing. However, this ALJ did not allow Claimant to submit the additional medical bills for lack of jurisdiction. Again, this hearing lacks the jurisdiction to address Claimant's alleged medical bills because it occurred subsequent to her hearing request. See BAM 600, pp. 4-6. As such, this ALJ will not address any of Claimant's alleged medical bills for lack of jurisdiction

Fifth, Claimant testified that she disputed the amount of her MA deductible. Because Claimant's hearing request is submitted in July 2014, this ALJ will only determine if the Department properly calculated Claimant's MA deductible from May 2014 to July 2014. See BAM 600, pp. 4-6.

MA deductible

In this case, Claimant's Eligibility Summary indicated that her monthly deductible was \$1,172 for May 2014 to August 2014. See Exhibit 3, p. 3.

It was not disputed that Claimant was disabled and/or an aged individual. As a disabled person, Claimant received Group 2 Spend-Down (G2S) due to Claimant receiving RSDI income.

G2S is an SSI-related category. BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (January 2014), p. 1; BEM 166, p. 2; BEM 544 (July 2013), p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one (Claimant) living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$375 may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545 (July 2013), p. 1.

In this case, the Department presented Claimant's MA deductible budget, which included the same calculations for the benefit period of May 2014 to July 2014. See Exhibit 3, p. 2.

The Department counts the gross benefit amount of RSDI as unearned income. BEM 503 (January 2014 and July 2014), p. 28. The evidence presented that Claimant's gross RSDI unearned income was \$1,697 per month. See Exhibit 3, pp. 4-6. The Department then properly subtracted the \$20 disregard to establish Claimant's total net unearned income of \$1,677. BEM 541 (January 2014), p. 3 and see Exhibit 3, p. 2. Moreover, the Department properly subtracted Claimant's Part B insurance premium in the amount of \$104.90. See Exhibit 3, p. 2 and see BEM 541, pp. 1-7; BEM 544, pp. 1-4. It should be noted that Claimant testified that she just recently began paying Part D

premiums on or around September 2014. However, the health premium Part D deductible is not applicable to the benefit periods being reviewed in this case.

Additionally, the Department included a \$25 cost-of-living (COLA) exclusion amount for the Claimant. See Exhibit 3, p. 2. Countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503, p. 29. Federal law requires the COLA increase received in January be disregarded for these three months. BEM 503, p. 29. For all other months countable RSDI is the gross amount for the month being tested. BEM 503, p. 29. It appears that the Department continued to apply the COLA exclusion subsequent to the benefit months of March 2014. Nevertheless, this is harmless error by the Department as it provided Claimant with an additional deduction.

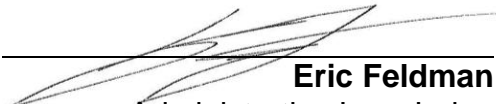
Finally, Claimant's countable income of \$1,547 for MA purposes exceeds the monthly protected income level of \$375 by \$1,172. See Exhibit 3, p. 2. Thus, the Department properly determined that Claimant would receive MA coverage once she incurs medical expenses in excess of \$1,172 for May 2014 to July 2014. See Exhibit 3, p. 2.

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 acted in accordance with Department policy when it properly calculated Claimant's G2S – MA deductible in the amount of \$1,172 for May 2014 to July 2014; and (ii) this hearing lacks the jurisdiction to address if whether the Department failed to process Claimant's medical expenses.

Accordingly, the Department's decision MA is AFFIRMED.

IT IS ALSO ORDERED that Claimant's FAP and SER hearing request (dated July 25, 2014) is **DISMISSED**.


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

Date Signed: **11/14/2014**

Date Mailed: **11/14/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC:

[REDACTED]