

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-007455
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: October 14, 2014
County: WEXFORD

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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, an in person hearing was held on October 14, 2014, from Cadillac, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED], Claimant's wife, also appeared as a witness. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Coordinator, FM and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine the Medical Deductible for the Claimant and his daughter?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant completed a redetermination in June 2014. At the time of the redetermination, the Claimant and his daughter had been receiving TMA or Transitional Medical Assistance.
2. The Claimant's TMA was ending as he had received it for a year. At the redetermination, the Claimant's MA eligibility was recalculated.
3. The Claimant is employed and receives pay weekly in the amount [REDACTED] and received a bonus in May 2014 in the amount of [REDACTED]

4. The Claimant had [REDACTED] in MA budgetable earned income, based upon pay stubs submitted to the Department and [REDACTED] in child support income (unearned income). Exhibit 2 , pp.4
5. The Department issued a Health Care Determination Notice on June 20, 2014 finding the Claimant and his daughter were eligible for medical assistance with a deductible of [REDACTED] per month for the daughter and [REDACTED] for the Claimant effective August 1, 2014. Exhibit 1 p. 26-31.
6. The Department's Health Care Determination Notice used \$ [REDACTED] as the Claimant's annual income, and determined the Claimant's Monthly expected Magi Income was \$ [REDACTED]. The income used for the Claimant's daughter was \$0 to determine the spend down amount. (deductible). Exhibit 1, p.24.
7. The Claimant's spouse's monthly-expected Magi income was \$ [REDACTED] and the annual income was determined to be [REDACTED]
8. The Claimant's spouse had MA budgetable earned monthly income of [REDACTED] based upon pay stubs submitted to the Department. Exhibit 1.
9. The Claimant requested a hearing on June 30, 2014 protesting the Department's determination of the deductible amount.

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 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 issue in this case is whether the Department correctly determined the deductible for the Claimant and his daughter. The Claimant was determined eligible for medical assistance subject to a deductible as a caretaker of a minor child. The Department presented two G2 FIP related MA (adult) and MA (child) Net Income Budgets to support its determination of the deductible for the Claimant and his child. The amount of the deductible differs significantly for the claimant and his daughter due to the fact that only the Claimant's income was used to calculate his daughter's deductible, because he is

the only person in her fiscal group and she has \$0 income. The Claimant's wife was not considered to be a member of his daughter's fiscal group as she is a step-mother. On the other hand, as regards the Claimant, his wife is considered a group member. Fiscal group size is determined by policy found in BEM 211 and Magi Related Policy.

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. It is based on federal tax rules for determining adjusted gross income. It eliminates asset tests and special deductions or disregards.

Every individual is evaluated for eligibility based on MAGI rules. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. Michigan Department of Community Health, MAGI-Related Eligibility Manual (May 28, 2014) pp 13-14.

BEM 211 provides:

MAGI-RELATED

Group composition for MAGI-related categories is in MAGI-Related Policy. Do not use the policy in this item to determine group composition for MAGI-Related categories. BEM 211 (1/1/14) pp. 1. The MAGI-Related categories that apply in this case are due to the Claimant's child being under the age of 19, and the Claimant being a Parent-Caretaker.

The following lists the order in which to consider MAGI-Related MA categories. Certain state-funded programs for families are included in addition to MAGI-Related MA categories.

1. Special categories:

- FIP recipients (BEM 110).
- Title IV-E recipients (BEM 117).
- Special Needs Adoption (BEM 117).
- Department wards (BEM 117).
- Newborns (BEM 145).

- 2. BEM 110, Low-Income Family MA.
- 3. BEM 111, Transitional MA.
- 4. BEM 113, Special N/Support.
- 5. Children under 19.
- 6. Pregnant Women.
- 7. Parents or Caretakers.
- 8. Plan First.

BEM 105, (1/1/14) pp. 3.

Based upon BEM 211 and BEM 105, the Claimant and his daughter's deductible are clearly subject to MAGI-related policy because the Claimant is a parent caretaker, and the Claimant's daughter is under 19.

As referenced above, in order to determine the correct fiscal group size, it is necessary to consult MAGI-Related policy. In this case, the Department determined that the Claimant's group size when calculating the deductible was two. Based upon policy found in the MAGI-Related Manual, this fiscal group size is incorrect and the group size should have been three.

Michigan Department of Community Health (MDCH) MAGI-Related Eligibility Manual, Chapter 5, Sections 5.1 and 5.2 provide:

5.1 FAMILY SIZE

The size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household. **Parents and step-parents are treated the same.** Individual family members may be eligible under different categories. (Emphasis supplied)

5.2 TAX FILERS AND NON- TAX FILERS

a. The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual
- Individual's spouse and
- Tax dependents.

The Claimant's budget should have included the Claimant, his spouse and his dependent daughter.

Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). The PIL is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 132 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

Likewise, the Claimant's daughter's group should also have been three, as this MAGI policy requires that a step-parent be treated the same as a parent, and thus the Claimant's daughter's step-mother is a group member. Based on the improper group size, the Group 2 FIP-Related MA (Child) and FIP-Related (Adult) budgets must be

recalculated to use the correct income limit for a group of 3, rather than 2. The protected income limit will be higher.

Another error also resulted due to the Department's inclusion of [REDACTED] in child support income when calculating the Claimant's deductible. Child support is a non-countable income source under MAGI. Michigan Department of Community Health (MDCH) MAGI Related Eligibility Manual Chapter 7 Income, section 7.2, Non Countable Income Sources, pp.14.

After a review of the budgets, it is determined that based upon the pay stubs provided by the Claimant and his spouse, that the MA budgetable income of [REDACTED] for the Claimant is incorrect as it includes an amount for child support; the income for the Claimant's spouse [REDACTED] is correct. Exhibit 2 pp. 1 and 8.

Lastly, the Department's determination of Claimant and his daughter's eligibility for full Medicaid, based upon the Department's MAGI determination was also reviewed. Exhibit 1 pp. 26-28. The Department issued a Health Care Coverage Determination Notice on June 20, 2014, which utilized monthly income of \$ [REDACTED] and annual income of [REDACTED] for the Claimant. This determination of annual income was not supported by the Claimant's pay stubs, which would make the monthly income higher than supported by the evidence presented and available, and thus the undersigned has no basis on which to review or determine how the Department determined the monthly expected adjusted income of \$ [REDACTED] for the Claimant. Likewise, the Department used monthly adjusted Income of [REDACTED] for the Claimant's spouse had an annual income of [REDACTED] which also was high based upon the evidence provided regarding her earnings, and which could also not be reviewed, as the basis for this determination was not explained. The income eligibility limit for a group of 3 members for the Claimant's child is [REDACTED] which limit is correctly used to determine full Medicaid eligibility. For the Claimant for a group of 3 members, the limit is [REDACTED]

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 did not act in accordance with Department policy when it determined the deductible amounts for the Claimant and his daughter.

The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Claimant's and his spouse's income used in determining eligibility for full Medicaid.

DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

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. The Department shall recalculate the Claimant and Claimant's daughters G2 FIP Related MA (Adult) and (Child) net income budgets in accordance with this Hearing Decision.
2. The Department shall recalculate and determine the monthly/annual income limits for the Claimant and his spouse and redetermine the Claimant's and his daughter's income eligibility for Medicaid.
3. The Department shall provide a Health Care Coverage Determination Notice to the Claimant regarding its decision.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed **11/13/2014**

Date Mailed **11/13/2014**

LMF/tm

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 rose 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:

A large black rectangular redaction box covers the recipient list for the CC field. The redaction is composed of several overlapping horizontal bars of varying lengths, completely obscuring the names and contact information of the recipients.