

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

IN THE MATTER OF:



Reg. No.: 2014-18637
Issue No(s): 2001; 2007
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (31)

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 February 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible for October to December 2013?

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 was an ongoing recipient of MA benefits. See Exhibit 1.
2. Effective October to November 2013, Claimant had a deductible in the amount of \$1,218. See Exhibit 1.
3. Effective December 2013, Claimant had a deductible in the amount of \$1,234. See Exhibit 1.
4. On December 2, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective January 1, 2014, ongoing,

due to his deductible not being met in at least one of the last three months. See Exhibit 1.

5. On December 12, 2013, Claimant filed a hearing request, protesting his MA benefits. 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 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.

Preliminary matters

First, on December 2, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective January 1, 2014, ongoing, due to his deductible not being met in at least one of the last three months. See Exhibit 1. Claimant agreed that he did not submit and/or meet the deductible the last three months. Claimant testified that he was not disputing this issue. Thus, this hearing decision will not address Claimant's MA closure due to the deductible not being met in at least one of the last three months.

Second, Claimant testified that he was only disputing his MA deductible amount. Claimant's request for hearing was received in December 2013. See Exhibit 1. Thus, this hearing decision will address Claimant's MA deductible for three months (October to December 2013). See BAM 600 (July 2013), pp. 4-5.

MA deductible for October to November 2013

Effective October to November 2013, Claimant had a deductible in the amount of \$1,218. See Exhibit 1. It should be noted that the Department presented one budget that reflected both the October and November 2013 deductible. See Exhibit 1.

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 Retirement, Survivors, and Disability Insurance (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 (July 2013), p. 1; BEM 166, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA group of one (Claimant) living in Wayne County is \$375 per month. RFT 200 (July 2007), p. 1; 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 counts the gross benefit amount of RSDI as unearned income. BEM 503 (July 2013), p. 28. It was not disputed that Claimant's gross RSDI unearned income was \$979 per month. The Department then properly subtracted the \$20 disregard to establish Claimant's total net unearned income of \$959. BEM 541 (July 2013), p. 3.

The Department also indicated Claimant had \$1,364 in self-employment income. Claimant first testified that he agreed with this calculation. However, when reviewing the December 2013 MA budget, Claimant disagreed with the calculation due to him indicating that his self-employment income fluctuates. The Department did not present documentary evidence, however, testified that this amount was based on the income he previously reported. Claimant testified that he did not report to the Department that his self-employment income fluctuated for any of these months nor did he present evidence at the hearing of this self-employment income. It should be noted that the Department testified that the reported income was actually a greater amount and was unsure on the self-employment calculated amount.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. Income reporting requirements for earned income are listed in BAM 105. See BAM 105, p. 9. Also, other changes must be reported within 10 days after the client is aware of them. BAM 105, pp. 9-10.

For SSI-related MA budgets, average only self-employment income. BEM 530 (July 2013), p. 2. Convert self-employment income which is received less often than monthly to a monthly amount based on past and/or estimated future proceeds and allowable expenses. BEM 530, p. 2.

For a deductible client, do a future month budget at redetermination and when a change occurs that may affect deductible status. BEM 530, p. 2. BEM 530 lists additionally methods of how to conduct MA income budgeting. See BEM 530, pp. 1-5.

Based on the foregoing information, the Department properly calculated Claimant's self-employment income in the amount of \$1,364. The self-employment appeared to have been budgeted based on a previously reported amount. Moreover, Claimant initially agreed with this calculation, however, he then disagreed with it when reviewing the December 2013 budget. Nevertheless, Claimant testified that he never reported to the

Department a change in his earned income and failed to present evidence at the hearing of what is self-employment income is supposed to be. It is the Claimant's responsibility to report a change in earned income, in which he failed to do so. See BAM 105, pp. 9-10. Thus, the Department properly calculated Claimant's self-employment income based on the previously reported income. See BEM 530, pp. 1-5.

Additionally, because Claimant has self-employment income, the Department applies a disregard of \$65 plus 1/2 of the fiscal group's remaining earnings. See BEM 541, p. 3. RFT 295 indicates that the \$65 plus 1/2 disregard amount is \$714. RFT 295 (October 2008), p. 28. It is unclear why the budget indicated \$714.50. See Exhibit 1. Nevertheless, this is harmless error. Then, the Department obtains a net earned income amount of \$649.50 (\$1364 minus \$714.50), which results in a total net income of \$1609 (\$959 unearned income plus \$649.50 earned income). See Exhibit 1.

The Department then calculated a countable income amount of \$1,593, which is a different amount than \$1,609. See Exhibit 1. Nevertheless, this is harmless error as the Department applied a lesser amount for the deductible calculation. If the Department applied the \$1,609 amount as shown in budget, then Claimant's deductible would have resulted in a greater amount.

Finally, Claimant's countable income of \$1,593 for MA purposes exceeds the monthly protected income level of \$375 by \$1,218. See Exhibit 1. Thus, the Department properly determined that Claimant would receive MA coverage once he incurs medical expenses in excess of \$1,218 for the months of October to November 2013. See Exhibit 1.

MA deductible for December 2013

Effective December 2013, Claimant had a deductible in the amount of \$1,234 and the Department presented a budget for December 2013. See Exhibit 1.

In this case, the Department counts the gross benefit amount of RSDI as unearned income. BEM 503, p. 28. It was not disputed that Claimant's gross RSDI unearned income was \$979 per month. See SOLQ report Exhibit 1. The Department properly subtracted the \$20 disregard to establish Claimant's total net unearned income for MA purposes at \$959.


Additionally, as stated above, the Department properly calculated Claimant's self-employment income in the amount of \$1,364. See BEM 530, pp. 1-5. Because the Claimant has self-employment income, the Department applies a disregard of \$65 plus 1/2 of the fiscal group's remaining earnings. See BEM 541, p. 3. RFT 295 indicates that the \$65 plus 1/2 disregard amount is \$714. RFT 295 (December 2013), p. 40. It is unclear why the budget indicated \$714.50. See Exhibit 1. Nevertheless, this is harmless error. Then, the Department obtains a net earned income amount of \$649.50 (\$1364 minus \$714.50), which results in a total net income of \$1609 (\$959 unearned income plus \$649.50 earned income). See Exhibit 1.

Finally, Claimant's countable income of \$1,609 for MA purposes exceeds the monthly protected income level of \$375 by \$1,234. See Exhibit 1 and RFT 200 (December 2013), pp. 1-2 and RFT 240 (December 2013), p. 1. Thus, the Department properly determined that Claimant would receive MA coverage once he incurs medical expenses in excess of \$1,234 during the month of December 2013. See Exhibit 1.

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 for October to December 2013.

Accordingly, the Department's MA decision is AFFIRMED.


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

Date Signed: March 18, 2014

Date Mailed: March 18, 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.

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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/tlf

cc:

