

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19067
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (19)

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 March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Authorized Hearing Representative (AHR)/witness, [REDACTED], Care Coordinator from [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly activate Claimant's Medical Assistance (MA) coverage for 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 is an ongoing recipient of MA benefits. See Exhibit 1.
2. On October 30, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA deductible was met for October 2013 and that his monthly deductible was \$700 effective December 1, 2013, ongoing. See Exhibit 1.
3. On December 2, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA deductible was met for November 2013 and that his monthly deductible was \$700 effective January 1, 2014, ongoing. See Exhibit 1.

4. On December 2, 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, Claimant is not disputing the calculation of his MA deductible in the amount of \$700. The Department provided a budget showing how it calculated this amount. See Exhibit 1. As such, Claimant's MA deductible will not be addressed in this hearing.

Second, Claimant submitted as evidence a deductible report, which indicated eight medical expenses that ranged from December 5, 2013 to December 19, 2013. See Exhibit A. Claimant testified that he was not disputing the eight medical expenses, which were referenced in the deductible report. See Exhibit A.

Third, during the hearing, Claimant testified that he was disputing his MA coverage for December 1, 2013. Claimant also testified that he was disputing his MA coverage for February 2014. However, this hearing lacks the jurisdiction to address Claimant's MA coverage for February 2014 as this time period is subsequent to his hearing request. See BAM 600 (March 2014), pp. 4-6 and Exhibit 1. Claimant was notified to request another hearing to dispute his MA benefits for February 2014. See BAM 600, pp. 4-6.

Fourth, Claimant testified that he was not disputing his MA benefits for November 2013 and January 2014. Thus, based on the above information, this hearing will only address Claimant's MA benefits for December 2013.

MA coverage

In this case, Claimant is an ongoing recipient of MA benefits. See Exhibit 1. On October 30, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA deductible was met for October 2013 and that his monthly deductible was \$700 effective December 1, 2013, ongoing. See Exhibit 1. Specifically, on December 2, 2013, Claimant filed a hearing request, protesting his MA benefits. 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 him receiving Retirement, Survivors, and Disability Insurance (RSDI) payments. See Unearned Income Budget, Exhibit 1.

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. 2. 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.

At the hearing, Claimant testified that his deductible was met for December 2013. However, Claimant testified his home health care provider was not paid for services rendered on December 1, 2013. Claimant testified that his deductible had been met for December 2, 2013 to December 31, 2013 and that his home health caseworker will pay for this time period. The Department testified that it did not receive any medical expenses for December 1, 2013 and that it needs such proof for December 1, 2013, in order for the MA coverage to be processed.

BEM 545 presents a multi-step process for Group 2 MA income eligibility. See BEM 545, pp. 1-31. Income eligibility exists for the calendar month tested when: there is no excess income or allowable medical expenses equal or exceed the excess income. See BEM 545, p. 1. It should be noted that the fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11.

When personal care services in the clients home equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month. BEM 545, pp. 1 and 3.

Allowable medical expenses include amounts the medical group incurs for personal care services in their home or adult foster care (AFC). BEM 545, p. 20. Clients may receive personal care services while living in their own home, an AFC home or a home for the aged (HA). BEM 545, p. 20. Personal care expenses in their home, AFC or HA are incurred monthly regardless of when services are paid for. BEM 545, p. 21. A list of allowable services and excluded services are listed in BEM 545. BEM 545, pp. 21-22.

Finally, clients with excess income who are receiving personal care Home Help Services in their home may be eligible for ongoing MA coverage. BEM 545, p. 22. MA coverage can be authorized or continued at the client's option provided all conditions are met. See BEM 545, pp. 22-24.

Based on the foregoing information and evidence, the Department failed to establish it properly activated MA coverage for the entire month of December 2013. Claimant provided credible testimony and evidence that his December 2013 MA deductible had been met and that he receives personal care services in his home. When personal care services in the clients home equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month. BEM 545, pp. 1 and 3. The

evidence presented shows that his income eligibility exists for the entire month (December 2013). As such, Claimant's personal care services rendered on December 1, 2013, should be covered. Therefore, the Department will redetermine Claimant's MA eligibility for December 2013, including if the Claimant is income eligible for personal care services in accordance with Department policy.


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 did not act in accordance with Department policy when it failed to establish that it properly activated MA coverage for the entire month of December 2013.

Accordingly, the Department's MA 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. Redetermine Claimant's MA eligibility for December 2013, including if the Claimant is income eligible for personal care services in accordance with Department policy;
2. Begin recalculating the MA budget for December 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from December 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.


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

Date Signed: March 25, 2014

Date Mailed: March 25, 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/tlf

cc:

