

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2014 19458
Issue No(s): 2001
Case No.: ██████████
Hearing Date: March 10, 2014
County: Wayne County DHS 18

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) coverage under the Ad-Care program?

Did the Department properly provide Claimant with MA coverage subject to a 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. In a December 2, 2013 Notice of Case Action, the Department notified Claimant that, effective January 1, 2014 (i) his MA coverage under the Ad-Care program would close and he would receive MA coverage subject to a ██████ monthly deductible.
2. On May 22, 2013, Claimant filed a hearing request, disputing the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

In a December 2, 2013 Notice of Case Action, the Department notified Claimant that effective January 1, 2014 his AD Care cases would close and he would be eligible for MA coverage subject to a [REDACTED] monthly deductible. Claimant requested a hearing disputing the Department's action.

Closure of Ad-Care

The Ad-Care program provides full MA coverage to disabled clients who meet the net income limit. BEM 163 (October 1, 2010), p 1. MSP benefits provide for the State's payment of a client's Medicare premiums, coinsurances, and deductibles, depending on the client's income eligibility. BEM 165 (May 1, 2013), pp 1-2. At the hearing, the Department explained that Claimant was no longer eligible for full-coverage MA under the Ad-Care program because his income exceeded the income limit applicable under that program.

The Department provided a SSI-related MA budget showing the calculation of Claimant's net income for MA purposes. The budget shows Claimant had unearned income of [REDACTED]. Claimant confirmed that he received gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$[REDACTED]. The Department properly applied a [REDACTED] unearned income disregard, resulting in Claimant's net unearned income of [REDACTED]. See BEM 541 (January 2011), p 3.

The budget also showed earned income of \$1561. Claimant disputed this calculation. The Department testified that in calculating Claimant's earned income, it considered the following pay identified on the pay stubs provided to the Department: [REDACTED] received on November 8, 2013; [REDACTED] received on November 15, 2013; [REDACTED] 8 received on November 22, 2013 and [REDACTED] received on November 29, 2013. When the amount of income from a source changes from month to month, the Department must estimate the amount that will be received/available in the future month. BEM 530, p 3. The Department must prospect a client's income when estimating the income to be received by the client in a processing or future month. BEM 530 (October 2012), pp 3-4. Prospecting income means arriving at a best estimate of the person's income. BEM 530, p 4.

Based on the identified payments, the Department did not properly determine the Claimant's total estimated earned income and the [REDACTED] is incorrect. The pay checks

and income were reviewed manually at the hearing and the basis for the [REDACTED] could not be established. A [REDACTED] disregard plus ½ of the fiscal group's remaining earnings [REDACTED] was applied to earned income. BEM 541, p 3; RFT 295 (October 2008). This results in net earned income of [REDACTED], as reflected on the MA budget and this amount was also not correct due to the earned income amount being incorrect. .

It is determined that based upon the requirements of BEM 530 that Department policy was not properly followed and the earned income calculation in the SSI Related Medicaid budget is incorrect. BEM 530 provides: **Non-averaged income:**

Use amounts that will be, or are likely to be, received/available in the future month. See "PROSPECTING INCOME" below.

Exceptions:

- Do not budget an extra check (example, fifth check for person paid weekly).

If prospecting income based on bi-weekly or twice a month payments, multiply by 2. If prospecting income based on weekly pay, multiply by 4.

Claimant's net unearned income of [REDACTED], plus his net earned income of [REDACTED] even though incorrect, results in total net income of \$[REDACTED]. The income limit under the Ad-Care program where there is two member in the MA fiscal group is [REDACTED]. BEM 163, p 2; BEM 211 (November 2012), pp 6-7; RFT 242 (April 2013), p 1. Because Claimant's net income of [REDACTED] exceeded the income limit under both the Ad-Care program the Department acted in accordance with Department policy when it closed Claimant's MA coverage under Ad-Care and MSP. However, upon recalculation of the deductible amount the new corrected net income should be reviewed with respect to Ad Care eligibility.

MA Deductible

The Department testified that, although Claimant was not eligible for full-coverage MA, he was eligible for MA with a monthly [REDACTED] deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (October 2010), p 1; BEM 166 (October 2010), pp 1-2; BEM 544, p 1; RFT 240 (July 2007), p 1. The monthly PIL for an MA fiscal group size of two living in Wayne County is [REDACTED] per month. RFT 200 (July 2007), p 1; RFT 240, p 1. Thus, if Claimant's net income is in excess of [REDACTED], he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds [REDACTED]. BEM 545 (July 2011), p 2.

In this case, the Department produced a SSI-Related MA budget showing how the deductible in Claimant's case was calculated. As discussed above, Claimant's earned income was not correctly calculated .. BEM 530 (October 1, 2012), p 1; BEM 541 (January 2011), p 3. Because the Department improperly calculated the earned income the deductible of [REDACTED] as calculated by the Department is incorrect and thus the Department did not act in accordance with Department policy when it calculated Claimant's MA deductible.

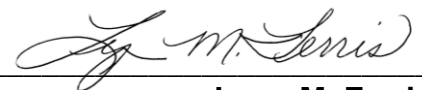
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it closed Claimant's Ad-Care case but did not act in accordance with Department policy when it calculated her MA deductible.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the closure of Claimant's Ad-Care case and REVERSED IN PART with respect to the Department's calculation of Claimant's MA deductible.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's MA deductible as of January 1, 2014, ongoing in accordance with Department policy and consistent with this Hearing Decision; and
2. The Department based upon its recalculation of the MA deductible, shall also determine if the new net income has changed so as to no longer exceed the Ad Care limit
3. Provide Claimant with MA coverage he is eligible to receive from January 1, 2014, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: April 1, 2014

Date Mailed: April 1, 2014

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]