

**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.: 2014-26057
Issue No(s): 2001; 2007
Case No.: ██████████
Hearing Date: March 3, 2014
County: Wayne (15)

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 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included Erica Beard, Assistant Payment Worker.

ISSUES

Did the Department properly close Claimant's son Medical Assistance (MA) - Healthy Kids Expansion (HKE) coverage effective February 1, 2014, ongoing?

Did the Department properly calculate Claimant's son Group 2 under 21 Medicaid (G2U) deductible in the amount of \$666 effective February 1, 2014, ongoing?

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's son is an ongoing recipient of MA benefits. See Exhibit 2.
2. On January 2, 2014, the Department sent Claimant a Notice of Case Action notifying her that her son's MA – HKE benefits would close effective February 1, 2014, ongoing, due to him not being under 21, pregnant, or a caretaker of a minor in his home, or not over 65 (aged), blind, or disabled. See Exhibit 1.

3. On January 2, 2014, the Notice of Case Action also notified Claimant that her son would receive MA – G2U coverage with a \$666 monthly deductible effective February 1, 2014, ongoing. See Exhibit 1.
4. On January 13, 2014, Claimant filed a hearing request, protesting the MA closure and deductible amount. 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.

MA – HKE closure

Other Healthy Kids(OHK) is a FIP-related Group 1 MA category. BEM 131 (July 2013), p. 1. MA is available to a person who is under age 19 when net income does not exceed 150% of the poverty level. BEM 131, p. 1. A person age 16-18 years old with net income between 101-150% of the poverty level is a Healthy Kids Expansion (HKE) recipient. BEM 131, p. 1.

All eligibility factors must be met in the calendar month being tested. BEM 131, p. 1. However, only certain eligibility factors apply before redetermination. BEM 131, p. 1.

Nonfinancial eligibility factors include the person must be under age 19. BEM 131, p. 2.

Once eligible, eligibility continues until redetermination unless the person: reaches age 19, or moves out of state, or is ineligible due to Institutional Status, or dies. BEM 131, p. 3. An ex parte review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BEM 131, p. 3.

In this case, Claimant's son is an ongoing recipient of MA benefits. See Exhibit 2. On January 2, 2014, the Department sent Claimant a Notice of Case Action notifying her that her son's MA – HKE benefits would close effective February 1, 2014, ongoing, due to him not being under 21, pregnant, or a caretaker of a minor in his home, or not over 65 (aged), blind, or disabled. See Exhibit 1.

At the hearing, Claimant testified that her household included herself and her son. Claimant testified that her son turned 19-years-old in May of 2013.

Based on the foregoing information and evidence, the Department properly closed Claimant's son MA – HKE benefits effective February 1, 2014, ongoing, in accordance with Department policy.

First, a review of the Notice of Case Action does not indicate that the denial reason was that Claimant did not meet the age requirements for OHK and/or HKE. Instead, the denial reason was that he is not under the age of 21. See Exhibit 1. This is the incorrect policy. Nevertheless, this is harmless error by the Department regarding the denial reason as Claimant is still not eligible for OHK and/or HKE benefits.

Second, Claimant indicated that her son turned 19-years-old in May of 2013. As stated above, MA is available to a person who is under age 19 when net income does not exceed 150% of the poverty level. BEM 131, p. 1. A person age 16-18 years old with net income between 101-150% of the poverty level is a HKE recipient. BEM 131, p. 1. Once eligible, eligibility continues until redetermination unless the person: reaches age 19. See BEM 131, p. 3. Based on the above policy, Claimant's son is no longer eligible for HKE coverage as he reached the age of 19. Claimant is also not eligible for OHK because the same policy above is applicable. As such, the Department properly closed Claimant's MA – HKE coverage effective February 1, 2014, ongoing and instead, found Claimant eligible for MA – G2U coverage. See Exhibits 1 and 2.

MA – G2U deductible

In this case, on January 2, 2014, the Notice of Case Action also notified Claimant that her son would receive MA – G2U coverage with a \$666 monthly deductible effective February 1, 2014, ongoing. See Exhibit 1.

MA – G2U is a FIP-related Group 2 MA category. BEM 132 (July 2013), p. 1. MA is available to a person who is under age 21 and meets the eligibility factors in this section. BEM 132, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 132, p. 1.

The Department uses the fiscal group policies for FIP – related groups in BEM 211. BEM 132, p. 2. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 132, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 132, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 132, p. .2

The Department determines the fiscal group for each person who is requesting MA. BEM 211 (July 2013), p. 5. The fiscal group must be determined separately for each person. BEM 211, p. 5.

In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the client:

- The client's spouse, and
- The client's parent(s) if the client is a child.

BEM 211, p. 5. Therefore, in addition to establishing a fiscal group for each person requesting MA, the Department must use policies in BEM 536 to prorate a person's income among the person's dependents and him/herself. BEM 211, p. 5. Also, a child means an unmarried person under age 18. BEM 211, p. 1.

In this case, the Department would only consider Claimant's son income in determining his eligibility. Even though Claimant resides with her son, her income is not considered as the son does not meet the definition of a child. See BEM 211, pp. 1 and 5. Thus, only Claimant's son income is considered for MA – G2U eligibility. See BEM 211, pp. 1 and 5.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (July 2013), p. 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. As stated above, the Department would only conduct a budget using Claimant's son income.

At the hearing, the Department presented a MA – G2U budget for February 2014. See Exhibit 1. The Department calculated an adult's prorated income in the amount of \$364, which indicated income is present in the budget. The Department testified this calculation arises from half of Claimant's Retirement, Survivors, and Disability Insurance (RSDI) income. The Department testified that this amount was \$1,057. However, as stated above, the Department is to exclude Claimant's income in the calculation. Claimant testified that the only income present in her household is RSDI income and that her son does not receive any form of income. A review of Claimant's SOLQ indicated her net RSDI income is approximately \$2,075. See Exhibit 2. Moreover, a review of Claimant's son SOLQ report indicated the last RSDI payment occurred in July 2012 in the amount of \$1,057. See Exhibit 2. Also, the son's SOLQ report indicated the date of suspension or termination of the son's RSDI income last occurred in July 2012. See Exhibit 2. No other SSA income is shown for Claimant's son. See Exhibit 2.

Step 6 of other unearned income states to use the policies in BEM 500 and 530 to determine the fiscal group member's other countable unearned income. See BEM 536, p. 3.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's son MA – G2U deductible effective February 1, 2014, ongoing, in accordance with Department.

First, the Department acknowledged during the hearing that it erred in calculating the unearned income in the MA budget.

Second, a review of Claimant and her son's SOLQ appeared to indicate that it actually budgeted the son's previous unearned income and not the Claimant's. It appears that

Claimant's son previous \$1,057 RSDI income resulted in the calculation of the adult's prorate income amount of \$364. See Exhibit 2. Nevertheless, in either situation, the Department improperly calculated Claimant's deductible. The Department should not budget the Claimant's income and it should also exclude any of the Claimant's son unearned income in the MA budget as the evidence indicates that the son receives no such income. See BEM 211, pp. 1 and 5.

In summary, the Department will recalculate Claimant's son MA – G2U deductible effective February 1, 2014, ongoing, in accordance with Department policy.

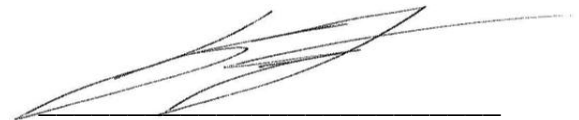
DECISION AND ORDER

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 (i) acted in accordance with Department policy when it properly closed Claimant's MA – HKE benefits effective February 1, 2014, ongoing; and (ii) did not act in accordance with Department policy when it improperly calculated Claimant's MA – G2U deductible in the amount of \$666 effective February 1, 2014, ongoing.

Accordingly, the Department's MA decision is AFFIRMED IN PART with respect to MA – HKE closure effective February 1, 2014 and REVERSED IN PART with respect to MA – G2U deductible calculation effective February 1, 2014.

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. Begin recalculating the MA budget for February 1, 2014, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from February 1, 2014, ongoing; and
3. 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 14, 2014

Date Mailed: March 14, 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/tm

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