

**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.: 14-017948
Issue No.: 2007
Case No.: ██████████
Hearing Date: March 04, 2015
County: MACOMB-DISTRICT 20
(WARREN)

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 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's ██████████, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUES

Did the Department properly provide Claimant, her spouse, and their minor child with Medical Assistance (MA) coverage under the Group 2 Caretaker Relatives (G2C) coverage with a monthly deductible?

Did the Department properly provide Claimant, her spouse, and their minor child with MA coverage they are eligible to receive?

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, her spouse, and their child are ongoing recipients of MA benefits.
2. Claimant was part of a household that included her spouse and their minor child.
3. Claimant and her spouse both received employment earnings (referred to as earned income). See Exhibit 1, pp. 6-9.

4. On November 19, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant, her spouse, and their minor child that they would receive MA coverage (G2C) with a monthly deductible. See Exhibit 1, p. 4.
5. Claimant would receive G2C coverage with a monthly deductible as follows: (i) [REDACTED]; (ii) \$ [REDACTED] ongoing. See Exhibit 1, p. 4.
6. Claimant's spouse would receive G2C coverage with a monthly deductible as follows: ([REDACTED] and (iii) [REDACTED], ongoing. See Exhibit 1, p. 4.
7. The minor child would receive G2C coverage with a monthly [REDACTED], ongoing. See Exhibit 1, p. 4.
8. On November 26, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

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.

MA benefit period of February 1, 2014, to July 31, 2014 (Claimant and spouse) and November 1, 2014, ongoing (only minor child)

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (January 2015), p. 35. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 35. The

ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 37.

During the hearing, the Department failed to present any of the MA budgets to show that the Department properly calculated the MA deductibles for the following benefit periods: [REDACTED] (Claimant and spouse) and November 1, 2014, ongoing (only minor child). Without these MA budgets, this ALJ is unable to determine if the Department properly calculated the MA deductibles. Therefore, the Department did not satisfy its burden showing that it properly calculated the MA deductibles. See BAM 600, pp. 35-37.

Furthermore, Claimant's spouse had a general argument that the MA coverage (with deductible) provided by the Department was inadequate because the deductible was excessive. For example, the minor child's MA deductible was [REDACTED] [REDACTED] [REDACTED] ongoing. However, it was unclear if the minor child qualified for a more beneficial MA category without a deductible.

For instance, persons may qualify under more than one MA category. BEM 105 (October 2014) p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The most beneficial category may change when a client's circumstances change. BEM 105, p. 2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2. One such MA category is called children under 19 (U19), which is based on the Modified Adjusted Gross Income (MAGI) methodology. BEM 105, pp. 1 and 3. The income limit for children birth to age 1 is 195% Federal Poverty Level (FPL) and the income limit for a child age 1-19 is 160% FPL. Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health (DCH)*, May 2014, p. 4.

Available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

In this case, the minor child is under nineteen-years-old; however, the Department was unable to provide evidence if Claimant's child was eligible for the MA – U19 category. The U19 is considered a more beneficial MA category than G2C. See BEM 105, pp. 3-4. Nevertheless, the Department indicated that Claimant, her spouse, and their minor child's deductible notice were based on a submitted redetermination. The Department failed, though, to present evidence that the Department processed all three of their eligibilities for the most beneficial MA category (i.e., minor child's eligibility for U19). As such, the Department will redetermine Claimant's, spouse's, and minor child's most beneficial MA category and also recalculate the MA budgets due to the Department's failure to provide MA budgets for the above benefit periods. See BEM 105, p. 2.

MA benefit period of August 1, 2014, to September 30, 2014 (Claimant and spouse) and November 1, 2014, ongoing (Claimant and spouse)

In this case, the Department provided a MA budget showing the calculation of Claimant and her spouse's deductible for the benefit period of January 1, 2015. See Exhibit 1, p. 5. The budget indicated the deductible amount for [REDACTED] however, the benefit months in dispute was [REDACTED], and [REDACTED]. See Exhibit 1, p. 4. Again, though, the Department did not provide MA budgets to review for these benefit periods. Nevertheless, this ALJ proceeded to review Claimant's MA budget for [REDACTED] as it appeared to reflect the same deductible amount for [REDACTED], and [REDACTED]. See Exhibit 1, p. 4.

G2C is a FIP-related Group 2 MA category. BEM 135 (July 2013), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 3. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 3. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 3.

At the hearing, the Department indicated that Claimant's gross monthly income was [REDACTED] the spouse's gross monthly income was [REDACTED]. See Exhibit 1, pp. 6-9. Claimant's spouse did not dispute the calculation of the incomes.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (January 2014), p. 1. Once the Department determined Claimant's and her spouse's countable income, it deducts [REDACTED] from the countable earnings of each fiscal group member with earnings. BEM 536, p. 1. For example, Claimant's total net income would be [REDACTED] and the spouse's total net income is [REDACTED]. See BEM 536, p. 3.

The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Claimant's and her spouse's number of dependents is two (each other spouse plus one minor children). The Department then adds 2.9 to the number of dependents (two), which results in a prorate divisor of 4.9. BEM 536, p. 4. The Department will then divide each person's total net income by the prorate divisor. For example, Claimant's prorated share amount is [REDACTED] income divided by 4.9 prorate divisor). BEM 536, p. 4. Thus, it appeared that the Department properly calculated Claimant's prorated income. See Exhibit 1, p. 5. However, the spouse's prorated share amount appears to be [REDACTED] net income divided by 4.9 prorate divisor). BEM 536, p. 4. The budget, though, shows that the

spouse's prorate income is [REDACTED]. See Exhibit 1, p. 5. The Department was unable to provide testimony and/or evidence for this discrepancy. As such, the Department failed to satisfy its burden of showing that it properly calculated Claimant and her spouse's MA deductible. This ALJ will not further discuss the G2C budget as the Department improperly calculated the budget up to this point.

Additionally, as stated in the previous analysis, the Department indicated that Claimant, her spouse, and their minor child's deductible notice were based on a submitted redetermination. The Department failed to present evidence that the Department processed all three of their eligibilities for the most beneficial MA category (i.e., minor child's eligibility for U19). As such, the Department will redetermine Claimant's, spouse's, and minor child's most beneficial MA category and also recalculate the MA budgets due to the Department's failure to show that it properly calculated the \$1,946 MA deductible. See BEM 105, p. 2.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant, her spouse's, and their minor child's MA-G2C deductible for the following benefit periods: (i) [REDACTED] (Claimant and spouse); (ii) [REDACTED] Claimant and spouse); and (iii) [REDACTED] ongoing (Claimant, spouse, and minor child); and (ii) the Department failed to satisfy its burden of showing that it properly provided Claimant, her spouse, and their minor child with the most beneficial MA coverage they are eligible to receive for the above stated benefit periods, in accordance with Department policy.

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. Reprocess Claimant's, her spouse's, and their minor child's MA eligibility and provide them with most beneficial MA coverage they are eligible to receive for the following benefit periods: (i) [REDACTED] (Claimant and spouse); (ii) [REDACTED] (Claimant and spouse); and (iii) [REDACTED], ongoing (Claimant, spouse, and minor child).
2. Begin recalculating Claimant, her spouse's, and their minor child's MA budgets for the benefit periods indicated as above;

3. Issue supplements to Claimant, her spouse, and their minor child for any MA benefits they were eligible to receive but did not; and
4. Notify Claimant of its MA decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/5/2015**

Date Mailed: **3/6/2015**

EJF/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 raised 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]