

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

IN THE MATTER OF:

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Reg. Nos.: 15-000263 and 15-000266
Issue No.: 2007
Case Nos.: ██
Hearing Date: March 12, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimants' 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 12, 2015, from Detroit, Michigan. Participants on behalf of Claimants included Claimants, husband and wife, and ██████████, Claimants' son and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator. The parties agreed to consolidate the hearings.

ISSUE

Did the Department properly determine that Claimants were eligible for Medical Assistance (MA) under the Group 2 SSI-related (G2S) program 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. Claimants are married, over age 65 and live in Wayne County.
2. Claimants received combined Retirement, Survivors and Disability Insurance (RSDI) income of \$1361 in 2014, which increased to \$1384 effective January 1, 2015.
3. Claimants are ongoing recipients of MA coverage.

4. On December 6, 2014, the Department sent Claimants a Health Care Coverage Determination Notice notifying them that they were approved for MA subject to a monthly \$726 deductible.
5. On January 5, 2014, both Claimants filed requests for hearing 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), 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.

Claimants requested a hearing disputing the Department's finding that they were eligible for MA subject to a monthly \$726 deductible. Based on the fact that both Claimants were over age 65 and not the parents of minor children, they were eligible for MA under an SSI-related category, which includes the AD-Care and G2S programs. BEM 105 (October 2014), p. 1. A client's eligibility for SSI-related MA is based, in part, on the fiscal group's income. BEM 105 (October 2014), p. 1. Claimants, two spouses living together, have two members in the fiscal group. BEM 211 (January 2015), p. 5.

At the hearing, the Department testified that Claimants' eligibility for full-coverage MA under the AD-Care program but concluded that they were ineligible. Effective April 1, 2014, MA fiscal groups with two members are income-eligible for full-coverage MA under the AD-Care program if the group's net income is at or below \$1331. BEM 163 (July 2013), p. 2; RFT 242 (October 2014), p. 1.

In determining a MA group's net income for MA purposes, the Department begins by considering the gross monthly RSDI benefits the group receives. BEM 503 (July 2014), p. 28; BEM 530 (January 2014), p. 2. This unearned income is reduced by a \$20 disregard. BEM 541 (January 2015), p. 3. Any cost of living increases to RSDI are not considered in calculating a client's MA benefits for January through March of the following year. BEM 503 (July 2014), p. 29.

In this case, Claimants combined RSDI income increased to \$1384 effective January 2015 based on a cost-of-living increase. Because the Department determined Claimants' eligibility for January 2015 ongoing, Claimants' gross RSDI income is reduced by the \$23 cost-of-living increase effective January 2015 as well as the \$20 disregard. As a result, Claimants' net income for MA purposes was \$1341. Because their net income exceeded the \$1331 net income limit for AD-Care eligibility, Claimants were not eligible for full-MA coverage under the AD-Care program.

Clients who are ineligible for full-coverage MA coverage because of excess income may be eligible for Group 2 MA coverage under the G2S program, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's shelter area and fiscal group size. BEM 105, p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Claimants' position, with an MA fiscal group size of two living in Wayne County, is \$500 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Claimants' monthly net income (less allowable needs deductions) is in excess of \$500, they may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the group's monthly net income, less allowable deductions, exceeds \$500. BEM 545 (July 2013), p. 2.

In this case, the Department presented an SSI-related MA budget showing the calculation of Claimants' deductible which was reviewed with the AHR at the hearing. As discussed above, Claimants' net income for MA purposes is \$1344. Net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544 (July 2013), pp. 1-3. In this case, one of the Claimants paid \$104.90 towards Part B Medicare premiums. There were no other eligible needs deductions presented. When the \$1341 in net income is reduced by the \$104.90 Part B premium, the countable income, rounded down, is \$1236. When Claimants' countable income of \$1236 reduced by the \$500 PIL, Claimants have excess income of \$736. In this case, the Department concluded that Claimants had a monthly deductible of \$726, which is slightly more favorable to Claimants.

It is noted that, because Claimants are in the same fiscal group, they become income eligible for MA coverage when their **combined** medical expenses exceed the deductible amount. BEM 545 (January 2015), p. 11.

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 concluded that Claimants were eligible for MA coverage subject to a monthly deductible.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/19/2015**

Date Mailed: **3/19/2015**

ACE / tlf

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:

