

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-004831
Issue No.: 2001; 2007
Case No.: ██████████
Hearing Date: May 7, 2015
County: WAYNE-DISTRICT 18
(TAYLOR)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly calculate Child A and B's Medical Assistance (MA) - Group 2 persons under age 21 (G2U) deductible in the amount of \$890 for January 2015 to March 2015?

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 has guardianship over Child A and B.
2. Child A and B are ongoing recipients of MA benefits. See Exhibit 2, pp. 3-4.
3. For 2014, Child A and B each received ██████████ in Retirement, Survivors, and Disability Insurance (RSDI) income per month.
4. For 2015, Child A and B each receive \$ ██████████ in RSDI income per month.
5. On November 24, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that Child A and B were eligible for MA coverage (with a ██████████ monthly deductible) effective December 1,

2015, ongoing. See Exhibit 2, pp. 1-2. Child A and B's Eligibility Summary indicated they received MA – G2U coverage with a [REDACTED] monthly deductible. See Exhibit 2, pp. 3-4.

6. Effective January 1, 2015, Child A and B received MA – G2U with an [REDACTED] monthly deductible. See Exhibit 2, pp. 3-4.
7. On March 18, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On March 18, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 2. Specifically, Claimant disputed the type of health coverage the children received and the fact they have been placed on a spend down. See Exhibit 1, p. 2. In essence, Claimant disputes the Department's eligibility determination of the children's MA benefits and the amount of their deductible. In regards to policy, the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2014), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. In the present case, the Department sent Claimant a determination notice advising Claimant of the children's eligibility for MA benefits (with deductible) on November 24, 2014. See Exhibit 2, pp. 1-2. However, Claimant did not file a request for hearing to contest the Department's action until March 18, 2015. See Exhibit 1, p. 2. Claimant's hearing request was not timely filed within ninety days of the determination notice. Thus, this Administrative Law Judge (ALJ) lacks the jurisdiction to address the type of coverage the children were found eligible for (MA-G2U) and the amount of their deductible for December 2014. See BAM 600, pp. 1-6. However, this ALJ can review whether the Department properly calculated the children's MA deductible for January 2015 to March 2015. See BAM 600 (October 2014 and January 2015), pp. 1-6.

Therefore, this ALJ will not review whether the children are eligible for other MA categories for lack of jurisdiction and will only review the MA deductible amount for January 2015 to March 2015.

MA deductible

G2U is a Group 2 Medicaid (MA) category. See BEM 132 (January 2015), p. 1. Medicaid is available to a person who is under age 21 and meets the eligibility factors in this item. BEM 132, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 132, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs. BEM 132, p. 2. If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. BEM 132, p. 2.

In this case, the Department presented a MA – G2U budget for Child A and B for the benefit period of January 1, 2015, ongoing. See Exhibit 1, pp. 4-5. As stated above, this ALJ is only reviewing the MA deductible for January 2015 to March 2015. A review of the budgets determined they are the same calculations for January 2015 to March 2015 and resulted in the same deductible amount for each child. Therefore, the analysis below will be applicable to Child A and B and for the periods of January 2015 to March 2015.

First, for G2U – MA, a child's fiscal group is the child and the child's parents. See BEM 211 (January 2015), p. 6. In this case, Claimant has guardianship over Child A and B and therefore, the group size is one.

Then, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (January 2014), 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. The Department uses the budgeting rules in BEM 530 to determine MA Group 2 income eligibility. See BEM 545 (January 2015), p. 2. BEM 530 is used to determine Claimant's MA income budgeting. See BEM 530 (January 2014), pp. 1-5. Also, the Department counts the gross benefit amount of RSDI received as unearned income. See BEM 503 (July 2014), p. 28. However, for MA only, countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. BEM 203, p. 29. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. BEM 203, p. 29. For all other months countable RSDI is the gross amount for the month being tested. BEM 203, p. 29.

In this case, the Department properly determined that Child A and B's net income is ██████████ (referred to as "child's share of child's own income" in the budget). See Exhibit 1, pp. 4-5. Please note, the Department properly calculated the children's countable income to be ██████████ for the period of January 2015 to March 2015. See Exhibit 1, pp. 4-5 and BEM 530, p. 2. As stated above, the Department uses the gross amount received for the previous December when the month being tested is January, February, or March. BEM 203, p. 29.

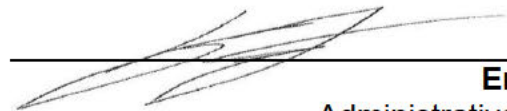
Next, a review of the budget and policy found that the Department properly calculated Claimant's total net income to be \$[REDACTED]. See Exhibit 1, pp. 4-5 and BEM 536, p. 6 (a child's fiscal group's net income is the total of the child's net income if the child has no dependents). However, it was unclear how the Department went from [REDACTED] (child's share of child own income) to \$[REDACTED] (total net income), which is a [REDACTED] difference. It appeared that Department calculated the total net income to be \$[REDACTED] based on the children's RSDI income received in December 2013. Nevertheless, this is harmless error by the Department as it calculated a lesser amount. It should be noted that Claimant did not indicate any form of dependent care expenses, court-ordered support, or guardianship/conservator expenses, which could have been resulted in a lesser deductible amount. See BEM 536, pp. 1-4.

Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 132, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. In this case, the monthly PIL for an MA group of one (Child A or B) living in Wayne County is [REDACTED] per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p. 1. Because Claimant's monthly total net income of [REDACTED] exceeds the [REDACTED] PIL by [REDACTED] the Department acted in accordance with Department policy when it concluded that Child A and B were eligible for MA coverage under the G2U program with a monthly deductible of [REDACTED] for January 2015 to March 2015. See BEM 545, pp. 2-3.

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 acted in accordance with Department policy when it properly calculated Child A and B's MA – G2U deductible for [REDACTED] for the period of January 2015 to March 2015; and this ALJ lacks the jurisdiction to address the type of coverage the children were found eligible for (MA-G2U) and the amount of their deductible for December 2014.

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



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

Date Signed: **5/11/2015**
Date Mailed: **5/12/015**
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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]