

**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.: 15-006667
Issue No.: 2001; 2004; 2007; 3008
Case No.: ██████████
Hearing Date: June 3, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

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 June 3, 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 ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective March 1, 2015, ongoing?

Did the Department properly provide Claimant with Medical Assistance (MA) coverage he is eligible to receive from April 1, 2015, ongoing?

Did the Department properly process Claimant's medical bills submitted on or around April of 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 is an ongoing recipient of FAP benefits. See Exhibit A, pp. 28-29.
2. Claimant was an ongoing recipient of MA – AD - Care benefits; however, due to excess income, Claimant was converted to MA – Group 2 Spend-Down (G2S)

coverage effective April 1, 2015 (with a [REDACTED] monthly deductible). See Exhibit A, pp. 19-21.

3. From January 1, 2015 to February 28, 2015, Claimant received a monthly FAP allotment of [REDACTED]. See Exhibit A, pp. 28-29.
4. On February 24, 2015, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that his income exceeds the income limit and he is eligible for MA – G2S coverage (with a [REDACTED] monthly deductible) effective April 1, 2015, ongoing. See Exhibit A, pp. 3-10.
5. For March 2015, Claimant's FAP benefits decreased to [REDACTED]. See Exhibit A, p. 29.
6. For April 2015, Claimant's FAP benefits increased to [REDACTED]. See Exhibit A, p. 29.
7. On or around April of 2015, Claimant alleged that he submitted medical bills to the Department.
8. For May 2015, Claimant's FAP benefits decreased to \$16. See Exhibit A, p. 29.
9. On April 23, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

FAP benefits

First, Claimant testified that he disputed the amount of his FAP allotment effective March 1, 2015, ongoing. The Department failed to present any Notice of Case Actions (case actions) as part of the evidence packet showing that Claimant was informed of his decrease and/or increase in FAP benefits between March 2015 to May 2015. Based on Claimant's Eligibility Summary, it appeared that all case actions informing Claimant of his FAP allotment between March 2015 to May 2015 were generated before his request for hearing. See Exhibit A, p. 29. As such, this Administrative Law Judge (ALJ) will address Claimant's FAP allotment for March 2015 to May 2015. See BAM 600 (April 2015), pp. 1-6. Nevertheless, the Department has failed to present any of Claimant's actual FAP budgets to show how his allotment was calculated.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 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. 36. 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. 38.

Based on the foregoing information, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP allotment for March 2015 to May 2015. BAM 600, pp. 35-38. The Department failed to present evidence of how it calculated Claimant's FAP allotment for the benefit periods in question (i.e., FAP budgets). Thus, the Department is ordered to recalculate Claimant's FAP benefits for March 2015 to May 2015, in accordance with Department policy.

MA deductible

In the present case, Claimant was an ongoing recipient of MA – AD - Care benefits; however, due to excess income, Claimant was converted to MA – G2S coverage effective April 1, 2015 (with a [REDACTED] monthly deductible). See Exhibit A, pp. 19-21. As such, this ALJ was going to determine if the Department properly calculated Claimant's G2S deductible. However, after a subsequent review of the evidence packet, it appears that Claimant is still eligible for MA – AD – Care.

MA - AD - Care is an Supplemental Security Income (SSI)-related Group 1 MA category. See BEM 163 (July 2013), p. 1. The Department uses this category before using Extended-Care (BEM 164) or any Group 2 MA category. BEM 163, p. 1. All eligibility factors in this item must be met in the calendar month being tested. BEM 163, p. 1.

Additionally, income eligibility exists when net income does not exceed the income limit in RFT 242. BEM 163, p. 2. RFT 242 states that the income limit for MA – AD – Care for a fiscal group of one effective April 1, 2015, is [REDACTED]. See RFT 242 (April 2015), p. 1. Furthermore, the Department determines countable income according to SSI-related MA policies in BEM 500 and 530 except as explained in “COUNTABLE Retirement, Survivors, and Disability Insurance (RSDI)” section listed in BEM 163. BEM 163, p. 2. Gross amount means the amount of RSDI before any deduction such as Medicare. BEM 163, p. 2. For all months (except January, February, or March), countable RSDI is the gross amount for the month being tested. BEM 163, p. 2. As such, the evidence established that Claimant’s gross RSDI income is [REDACTED] for April 2015. See Exhibit A, pp. 11-13 (Claimant’s State On-Line Query (SOLQ)) and BEM 503 (July 2014), p. 28 (The Department counts the gross benefit amount of RSDI as unearned income).

Then, the Department applies the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. In this case, the Department would subtract the [REDACTED] disregard to establish Claimant’s total net unearned income to be [REDACTED]. BEM 541 (January 2015), p. 3. It should be noted that the Department provided a MA – G2S budget reflecting the above calculations. See Exhibit A, p. 14. As such, Claimant appears eligible for MA – AD – Care as his net income of [REDACTED] is below the MA – AD –Care income limit of [REDACTED]. See RFT 242, p. 1.

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.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant’s MA – AD –Care coverage and instead, provided him with MA – G2S coverage. The Department will reprocess Claimant’s MA eligibility for MA – AD –Care and if he is still not eligible, provide Claimant with the most beneficial MA coverage he is eligible to receive for April 1, 2015, ongoing.

Medical expenses

Finally, Claimant contended that the Department failed to process medical bills he submitted on or around April of 2015.

Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (January 2015), p. 11. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545, p. 11. Additionally, a group with excess income can delay deductible for one or more future months based on

allowable old bills. BEM 545, p. 9. Moreover, the Department determines a deduction as listed in BEM 541 and/or 545. BEM 541, pp. 1-7 and BEM 545.

Claimant testified that he submitted the medical bills in April 2015 and that the Department only processed some of the submitted medical expenses. The Department failed to satisfy its burden that it processed any of the submitted medical bills. In fact, Claimant provided as evidence the medical bills that he alleged he submitted in April of 2015. See Exhibit 1, pp. 1-5.

Based on the foregoing information and evidence, the Department failed to establish that it processed Claimant's submitted medical bills and/or expenses. The evidence failed to establish that Claimant's submitted medical bills were reviewed by the Department to see if they qualified as an ongoing medical expense deduction, or if they could be applied towards the deductible, etc...

It should be noted that if Claimant is found eligible for MA – AD – Care, then Claimant would not have a deductible and the medical bills could not be applied towards the deductible as it would not exist. Nevertheless, the Department will still process Claimant's submitted medical bills 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) failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP allotment for March 2015 to May 2015; (ii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA – AD –Care benefits and instead, provided him with MA – G2S coverage effective April 1, 2015, ongoing; and (iii) failed to establish that it processed Claimant's submitted medical bills and/or expenses.

Accordingly, the Department's FAP and MA (including medical expenses) 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. Begin recalculating the FAP budget for March 1, 2015 to May 31, 2015, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2015 to May 31, 2015;

3. Reprocess Claimant's MA eligibility for MA – AD –Care for April 1, 2015, ongoing and if not eligible, provide Claimant with the most beneficial MA coverage he is eligible to receive for April 1, 2015, ongoing; and
4. The Department shall process Claimant's submitted medical bills and/or expenses submitted in April 2015, in accordance with Department policy; and
5. Notify Claimant of it decision.



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

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

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 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]
[REDACTED]