

**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.: 15-005148
Issue No.: 2001
Case No.: ██████████
Hearing Date: May 13, 2015
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly determine that Claimant was eligible for Medical Assistance (MA) under the Group 2 Caretaker (G2C) program subject to a monthly \$917 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. Claimant is an ongoing recipient of MA benefits.
2. Claimant lives with his wife and 17-year-old daughter.
3. Claimant receives monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1837.
4. In connection with a redetermination, the Department sent Claimant March 18, 2015, Health Care Coverage Determination Notice notifying him that effective April 1, 2015, he was eligible for MA subject to a monthly \$917 deductible.

5. On March 30, 2015, Claimant filed a request for hearing disputing the Department's decision.

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.

In connection with a delayed MA redetermination, the Department closed Claimant's MA case under a Transitional Medical Assistance (TMA) program and opened his case under a G2C program with a monthly deductible of \$917. The Department presented a budget showing the calculation of the deductible. Claimant confirmed that he received \$1837 in monthly RSDI income and that he resided in Macomb County with his wife and minor child. Based on this information, the Department properly concluded that the applicable pro rate divisor in his case was 4.9, that there were two members of his fiscal group, and that the applicable protected income level was \$541, all as shown on the MA budget provided. A review of the budget shows that the Department calculated the \$917 deductible under the G2C program in accordance with policy. BEM 536 (January 2014); BEM 544 (July 2013); RFT 240 (December 2013); RFT 200 (December 2013); BEM 211 (January 2015), pp. 5-6.

However, a client is entitled to the most beneficial MA category, which is the category which results in eligibility or the least amount of excess income. BEM 105 (October 2014). Another MA category, the Healthy Michigan Plan (HMP), provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

The Department testified that it considered Claimant's eligibility for HMP and concluded that he was income-ineligible. An individual is eligible for HMP if the household's

income does not exceed 133% of the federal poverty level (FPL) applicable to the group size. Claimant testified that he was not a tax filer and that he lived with his wife and 17-year old daughter. For MAGI purposes, Claimant has a household size of three. Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 5.2b, *available at* http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf. 133% of the FPL for a household with three members is \$26,320.70. <http://aspe.hhs.gov/POVERTY/14poverty.cfm>. Based on evidence that the sole income received by Claimant and his wife was the \$1837 monthly RSDI income, Claimant's annual income is \$22,044, consistent with the information contained in the March 18, 2015, Health Care Coverage Determination Notice. Therefore, Claimant is income-eligible for HMP.

The SOLQ (Exhibit A) indicates that Claimant may be eligible for Medicare. An individual who qualifies for or is enrolled in Medicare is **not** eligible for HMP. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1. However, the Department did not indicate that Claimant was denied HMP for any reason other than income eligibility, and the evidence presented does not clearly establish that Claimant qualifies for, or receives, Medicare. As such, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it concluded that Claimant was not eligible for HMP and found Claimant eligible for MA only under the deductible program.

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 concluded that Claimant was ineligible for HMP.

DECISION AND ORDER

Accordingly, the Department's 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 MA eligibility for April 1, 2015, ongoing to determine the most beneficial program Claimant is eligible to receive;
2. Provide Claimant with the most beneficial MA coverage he is eligible to receive from April 1, 2015, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

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 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]