

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008217
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: June 29, 2015
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 29, 2015, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's daughter, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], hearing facilitator.

ISSUES

The first issue is whether there is administrative hearing jurisdiction to dispute the assignment of a MDHHS specialist.

The second issue is whether MDHHS properly determined Claimant's eligibility for Medical Assistance (MA) benefits.

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 and her spouse were ongoing MA benefit recipients.
2. Claimant received \$436.50 in gross monthly Social Security Administration (SSA) income.
3. Claimant's spouse received \$1040/month in gross monthly SSA benefits.

4. On [REDACTED], MDHHS determined that Claimant and her spouse were eligible for Medicaid subject to a \$722/month deductible for March 2015 and for a \$746/month deductible beginning April 2015.
5. On [REDACTED], Claimant requested a hearing to dispute her MA eligibility from March 2015; Claimant also requested a hearing to request a change in MDHHS specialists.

CONCLUSIONS OF LAW

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

Claimant requested a hearing, in part, to request a new MDHHS specialist. MDHHS policy limits the issues for which a hearing may be requested.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

BAM 600 (July 2013), p. 3.

A change in MDHHS specialist is not an available remedy through the administrative hearing process. Claimant's hearing request will be dismissed concerning this issue.

Claimant also requested a hearing to dispute a MA determination since March 2015. MDHHS presented a Notice of Case Action (Exhibits 1-3) dated [REDACTED]. The Notice of Case Action stated that Claimant and her spouse were eligible for Medicaid subject to a \$722 deductible for March 2015 and Medicaid subject to a \$746 deductible beginning April 2015. Claimant contended that she and her spouse should be eligible for Medicaid with no monthly deductible.

It was not disputed that Claimant and her spouse were disabled and/or aged. As aged and/or disabled individuals, Claimant and her spouse are potentially eligible to receive Medicaid through AD-Care. BEM 163 outlines the proper procedures for determining AD-Care eligibility.

The first step of the budget process requires factoring MA group income. Claimant disputed the income budgeted by MDHHS. It was not disputed that Claimant and her spouse's only income came from RSDI.

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503 (July 2014), p. 28. Bridges counts the gross benefit amount as unearned income. *Id.* Some exceptions to this rule exist (e.g. recoupment for overpayment); evidence of applicable exceptions was not presented.

MDHHS presented part of an undated SSA award letter for Claimant's spouse (Exhibit 1). The award letter stated that Claimant's spouse was eligible to receive \$1040/month in SSA income, before any deductions. MDHHS also looked up Claimant's spouse's SSA information during the hearing. MDHHS testified that information from the data exchange with SSA also verified that Claimant's spouse's gross and net income was \$1040.

MDHHS presented a SSA award letter (Exhibit 5) dated [REDACTED]. The award letter stated that Claimant would receive \$436.50 in RSDI before any deductions. The only stated deduction on the letter was for a Medicare premium.

Claimant testified that she and her spouse receive less RSDI than the amounts budgeted by MDHHS. Claimant's presented evidence was less persuasive than MDHHS' evidence for two reasons. First, even if Claimant's testimony was accepted, the probability is that Claimant's gross RSDI income would not be different than what MDHHS budgeted (though Claimant's and her spouse's net RSDI income would be affected). Secondly, Claimant presented no documents to support her testimony; MDHHS presented documents obtained from a data exchange with SSA. It is found that Claimant's group's gross RSDI is \$1476.50.

The AD-Care budget allows a \$20 income disregard. MDDHS also gives budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (COLA) (for January through March only). Presumably Claimant's and her spouse's RSDI increased a total of \$24 beginning 2015; a \$24 COLA increase accounts for the increase in deductible beginning April 2015. Thus, Claimant's group's countable income for AD-Care would be \$1442.50 for March 2015 and \$1476.50 for April 2015.

Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (October 2010), p. 1. The net income limit for AD-Care for a two-person MA group as of March 2015 is \$1331/month; the income limit

effective April 2015 is \$1347.50. RFT 242 (April 2015), p. 1. As Claimant's countable income exceeded the AD-Care income limit for March 2015 and April 2015, it is found that MDDHS properly determined Claimant and her spouse to be ineligible for AD-Care due to excess income.

Claimant may still receive MA benefits subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (October 2014), p. 11. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

The deductible is calculated by subtracting the Protected Income Level (PIL) from the MA net income. The protected income level (PIL) is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Claimant's shelter area and group size is \$500. RFT 240 (December 2013), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. A presented budget stated that Claimant and her spouse each paid \$104.90 for a Medicare premium (see Exhibit 6). It is probable that the budget was prepared before Claimant and her spouse were approved for Medicare Savings Program benefits (see Exhibit 1). Approval for MSP benefits results in MDHHS paying Claimant's Medicare premium. Thus, Claimant may not even be eligible for the Medicare premium credit. For purposes of this decision, it will be found that MDHHS should have factored two \$104.90 credits, one for Claimant and one for her spouse. MDHHS also is to exclude a client's cost-of-living adjustment (COLA) for the first three months of the year. Subtracting the PIL, Medicare premium expense (\$209.80), \$20 disregard, and Claimant's \$24 COLA (for March 2015 eligibility only) from the group's income results in a monthly deductible of \$722 beginning March 2015 and a deductible of \$746 beginning April 2015- the same deductibles calculated by MDHHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish administrative hearing jurisdiction to dispute the assignment of her MDHHS specialist. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Claimant's and her spouse's MA eligibility as Medicaid subject to a \$722/month deductible, effective March 2015, and Medicaid subject to a \$746/month deductible, effective April 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

CG / hw

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:

