

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008838
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: July 20, 2015
County: WAYNE-DISTRICT 17

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 July 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible for May 1, 2015, ongoing?

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's received MA - Healthy Michigan Plan (HMP) coverage for April 2015; however, her benefits converted to MA - Group 2 Spend-Down (G2S) coverage effective [REDACTED].
2. Claimant receives unearned income, which includes Retirement, Survivors, and Disability Insurance (RSDI) and pension/retirement income. See Exhibit A, pp. 6-7.
3. On [REDACTED], the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that her MA - G2S deductible would be \$864 effective [REDACTED], ongoing. See Exhibit B, pp. 3-4. However, Claimant's MA - G2S budgets for May 2015 to June 2015 indicated that

her deductible decreased to \$738. See Exhibit B, pp. 1-2. There was no indication that a subsequent determination notice was issued informing the Claimant of the decrease in her deductible amount. Claimant also indicated that she never received the determination notice dated [REDACTED].

4. Effective [REDACTED], Claimant began receiving Medicare Part A and B coverage, which included a monthly insurance premium of \$104.90 for her Part B coverage. See Exhibit B, p. 5.
5. On [REDACTED], Claimant filed a hearing request, disputing her MA deductible. See Exhibit A, pp. 2 and 4.

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

The evidence fails to indicate if a subsequent determination notice was issued informing the Claimant of the decrease in her deductible amount. In fact, it appears that Claimant's MA deductible decreased to \$759 and then to \$738. See Exhibit A, p. 5 and Exhibit B, pp. 1-2. According to the Department's testimony, the changes appeared to occur after the hearing request dated [REDACTED]. See Exhibit A, p. 2. Because Claimant's hearing request ultimately disputed the amount of her deductible, the undersigned will address whether the Department properly calculated Claimant's MA – G2S deductible in the amount of \$738 effective [REDACTED], ongoing. See BAM 600 (April 2015), pp. 1-6.

MA – G2S deductible for May 2015

G2S is a Security Income (SSI)-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department calculated Claimant's total gross unearned income to be \$1,238, which comprised of Claimant's \$932 in RSDI income and \$306 in pension/retirement. See Exhibit B, p. 1. Claimant did not dispute the gross amount of income she received for May 2015.

The Department then properly subtracted the \$20 disregard to establish Claimant's total net unearned income of \$1,218. BEM 541 (January 2015), p. 3.

Next, the Department deducted Claimant's \$104.90 in Medicare Part B premium, which resulted in a total countable income of \$1,113.10. See Exhibit B, p. 1 and see BEM 544 (July 2013), p. 1. However, Claimant testified that she did not begin to pay the premium until June 2015.

The Department counts as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group regardless of who the coverage is for. BEM 544, p. 1. The Department verifies the cost of health insurance and Medicare premiums before allowing them as a need item at application, redetermination or change. BEM 544, p. 2. Clients must report and verify premium increases or decreases before you change the allowance. BEM 544, p. 2. Verifications sources for Medicare Premiums are as follows: BENDEX; TPQY (Third Party Query) response; WTP (Wire Third Party) response (see BAM 800); or Notice from Social Security Administration. BEM 544, p. 3.

In this case, the Department presented Claimant's State On-Line Query (SOLQ), which indicated that Claimant began receiving Medicare Part A and B coverage (including a monthly insurance premium of \$104.90 for her Part B coverage) effective [REDACTED]. See Exhibit B, p. 5. The Department did not dispute Claimant's testimony that her premium began [REDACTED].

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly calculated Claimant's MA budget. See BEM 544, pp. 1-3 and Exhibit B, pp. 1-7. The Department improperly budgeted Claimant's Medicare Part B premium for May 2015 because she did not begin paying the premium until June 2015. As such, the Department will recalculate Claimant's MA benefits for May 2015 in accordance with Department policy.

It should be noted that HMP is considered a Modified Adjusted Gross Income (MAGI) related category. MAGI Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 4.

Available at http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

The HMP provides health care coverage for individuals who:

- Are 19-64 years of age

- Have income at or below 133% of the federal poverty level under the MAGI methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

Medicaid Provider Manual, *Michigan Department of Community Health*, April 2015, p. 462. Available at <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>. All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 462.

Based on the above policy, this possibly explains why Claimant converted from HMP coverage to G2S due to her enrollment in Medicare (individuals not eligible for HMP if they do not qualify for or are not enrolled in Medicare). See Medicaid Provider Manual, p. 462. Thus, Claimant possibly might be eligible for HMP for May 2015, as she was not enrolled in Medicare until June 2015. Nevertheless, the undersigned cannot conclude that Claimant is eligible for HMP for May 2015 as the Department is ordered to recalculate Claimant's MA benefits for May 2015.

MA – G2S deductible for June 2015

In this case, the Department calculated Claimant's total gross unearned income to be \$1,238, which the Department testified that it comprised of Claimant's \$932 in RSDI income and \$306 in pension/retirement. See Exhibit B, p. 2. Claimant did not dispute the gross amount of income she received for RSDI income for June 2015; however, Claimant testified that her pension reduced to \$293 effective [REDACTED]. On or around [REDACTED], Claimant testified that she notified the Department caseworker that her pension reduced to \$293.

The Department counts the gross benefit amount of RSDI as unearned income. BEM 503 (July 2014), p. 28. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions, the Department also counts the gross benefit as unearned income. See BEM 503, p. 27.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 11. Income reporting requirements are limited to the following for unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

BAM 105, p. 11. Exception, for MA, clients must report a change in gross monthly income of more than \$25 since the last reported change. BAN 105, p. 11. It should be noted that Claimant did not have a change of more than \$25. Nevertheless, Claimant testified that she reported a change as it could affect her deductible amount. The Department acts on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220 (April 2015), p. 6.

For SSI-Related MA cases (including applicants and deductible cases), the Department determines income eligibility in calendar month order beginning with the oldest month. BEM 530 (January 2014), p. 1. This is especially important when using medical expenses to determine Group 2 income eligibility. BEM 530, p. 1.

In addition, the Department does a future month budget to determine ongoing income eligibility, deductible status or post-eligibility PPA when a change in circumstances occurred in the processing month or a change is anticipated for the future month. BEM 530, p. 1.

For a recipient, the Department does a future month budget at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530, p. 1.

For a deductible client, the Department does a future month budget at redetermination and when a change occurs that may affect deductible status. BEM 530, p. 1.

In the present case, Claimant is a deductible client/recipient of MA benefits in which she reported in June 2015 that her pension income decreased in June 2015. Therefore, the Department would budget the decrease for July 2015 (the future month) as the change occurred/reported in June 2015. See BEM 530, p. 1. As such, the Department properly budgeted Claimant's pension income to be \$306 for June 2015. Claimant's total gross unearned income is \$1,238 for June 2015. See Exhibit B, p. 2. It should be noted that if Claimant's July 2015 MA budget does not reflect the decrease in pension income, Claimant can request another hearing disputing her July 2015 MA budget/deductible. See BAM 600, pp. 1-6. The undersigned lacks the jurisdiction to address the July 2015 MA budget as the change report occurred after Claimant's hearing request. See BAM 600, pp. 1-6.

The Department then properly subtracted the \$20 disregard to establish Claimant's total net unearned income of \$1,218. BEM 541, p. 3 and Exhibit B, p. 2.

Next, the Department properly deducted Claimant's \$104.90 in Medicare Part B premium, which resulted in a total countable income of \$1,113.10. See Exhibit B, p. 2 and see BEM 544, p. 1.

Finally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (October 2014), p. 1; BEM 166, p. 2; BEM 544, p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one (Claimant) living in Wayne County

is \$375 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$375 may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545 (January 2015), p. 1.

Based on the above policy, Claimant's countable income of \$1,113, for MA purposes, exceeds the monthly PIL of \$375 by \$738. See Exhibit B, p. 2. Thus, the Department properly calculated Claimant's MA – G2S deductible to be \$738 for June 2015 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 did not act in accordance with Department policy when it (i) improperly calculated Claimant's MA benefits for May 2015; and (ii) acted in accordance with Department policy when it properly calculated Claimant's MA benefits for June 2015.

Accordingly, the Department's MA decision is **AFFIRMED IN PART** with respect to June 2015 and **REVERSED IN PART** with respect to May 2015.

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 MA budget for May 2015, in accordance with Department policy;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not for May 2015; and
3. Notify Claimant of its decision.



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

Date Signed: **7/27/2015**
Date Mailed: **7/27/2015**

EF / 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:

