

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-005609
Issue No.: 3000, 2001
Agency Case No.: [REDACTED]
Hearing Date: September 24, 2015
County: Ingham

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on September 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator, and [REDACTED] Back-Up Hearing Facilitator. [REDACTED] provided Commuter Assisted Real Time Translation (CART) services.

ISSUES

Whether there is still a contested issue regarding Claimant's Food Assistance Program (FAP) benefit case?

Did the Department properly determined Claimant's eligibility for Medical Assistance (MA)?

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.
2. In August 2014, Claimant submitted documentation of a monthly medical insurance premium expense of \$ [REDACTED]
3. Claimant receives \$ [REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI) benefits each month.
4. The Department determined that Claimant is eligible for Medicaid (G2S) with a monthly deductible of \$ [REDACTED]

5. On February 25, 2015, Claimant submitted a receipt from [REDACTED] documenting a return of sunglasses with a credit of \$ [REDACTED] charges for another pair of sunglasses totaling \$ [REDACTED] and a payment received from Claimant of \$ [REDACTED].
6. The Department determined that the documented medical expenses did not meet the MA monthly deductible for February 2015.
7. On March 30, 2015, Claimant filed a hearing request contesting Department actions with the FAP and MA benefits.
8. An error with the FAP case was corrected and supplement benefits were issued to Claimant.

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).

FAP

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.

Claimant testified that an error regarding her FAP case was corrected and indicated she received a payment of supplemental FAP benefits. Claimant's testimony indicated there was no longer any contested FAP issue for this ALJ to review. Accordingly, the FAP portion of Claimant's hearing request is DISMISSED.

MA

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.

Retirement, Survivors, and Disability Insurance (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. The Department counts the gross benefit amount as unearned income. BEM 503, (July 1, 2014), p. 28.

Supplemental Security Income (SSI) is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability or blindness. Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. The Department excludes the amount of current SSA-issued SSI as income. BEM 503, pp. 31-32.

Income eligibility exists for all or part of the month tested when the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, (January 1, 2015), pp. 2-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BEM 545, pp. 10-11.

Except for some transportation, the actual charge(s) minus liable third party resource payments counts as an allowable expense. BEM 545, p. 15.

Third party resource payments are payments from any liable third party for medical care. They include payments Medicare, other health insurers or any liable third party made or will make. BEM 545, pp. 17-18.

Claimant contested the Department including her social security benefits as income in determining MA eligibility noting that she is disabled.

A letter from the Social Security Administration (SSA) shows that Claimant receives \$ [REDACTED] in benefits each month. (Department Exhibit A, p. 4) The Department included this as RSDI benefit income in the MA budget and determined that Claimant is eligible for Medicaid (G2S) with a monthly deductible of \$ [REDACTED] (Department Exhibit A, pp. 5-6) Further, the Hearing Facilitator testified that she called SSA the day of the hearing proceedings and confirmed the type of benefits Claimant receives. Claimant initially received SSI benefits in 1987, then she began receiving early widow benefits in [REDACTED] at which time the benefits switched to RSDI benefits. SSA confirmed that Claimant has continued to receive RSDI benefits.

The Department presented sufficient evidence to establish that Claimant is receiving RSDI benefits. This ALJ does not doubt Claimant's testimony that she has been found disabled. However, when determining MA eligibility, the BEM 503 policy cited above directs that for RSDI, the gross benefit amount is counted as unearned income. There is no exception in the BEM 503 policy that would exclude RSDI benefits from being counted as income because of disability. Therefore, the Department properly counted the RSDI benefit income in Claimant's MA budget.

The only error identified in the MA budget was to Claimant's favor. The Department included \$ [REDACTED] for insurance premiums when the documentation Claimant submitted shows her monthly premium is only \$ [REDACTED] (Department Exhibit A pp. 2 and 6-7) Correcting this error would not eliminate or reduce Claimant's monthly deductible.

After applying other current and old bills totaling \$ [REDACTED] the Department determined that Claimant had a remaining deductible for February 2015 of \$ [REDACTED] (Department Exhibit A, p. 6)

On February 25, 2015, Claimant submitted a receipt from documenting a return of sunglasses with a credit of \$ [REDACTED] charges for another pair of sunglasses totaling \$ [REDACTED] and a payment received from Claimant of \$ [REDACTED] (Department Exhibit A, p. 1) Claimant explained that an error was made with the lenses for the original sunglasses. Claimant contested the Department only considering \$ [REDACTED] from this receipt rather than the full charge for the sunglasses of \$ [REDACTED] toward her monthly deductible. (See Department Exhibit A, p. 3)

As noted during the hearing proceedings, the evidence indicates that if it was not for the credit from the return, Claimant would have been responsible to pay the full \$ [REDACTED] However, even if the Department had applied the full \$ [REDACTED] expense from the [REDACTED] receipt, this still would not have been sufficient to meet her remaining deductible for February 2015 of \$ [REDACTED] (See Department Exhibit A, p. 6) Accordingly, the Department properly determined Claimant had not met the monthly deductible for February 2015.

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 determined Claimant's eligibility for MA.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/2/2015**

CL/jaf

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:

