

**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.: 15-006227
Issue No.: 2001; 2007
Case No.: ██████████
Hearing Date: June 1, 2015
County: WAYNE-DISTRICT 41
(FORT WAYNE)

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 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's spouse, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████ ██████ Eligibility Specialist/Hearings Liaison.

ISSUE

Did the Department properly calculate Claimant and his spouse'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 and his spouse are ongoing recipients of MA - Group 2 Spend-Down (G2S) benefits. See Exhibit B, pp. 16-18.
2. Claimant and his spouse live together and they reside in Wayne County.
3. On February 3, 2015, the spouse submitted a redetermination with several of the Claimant's medical bills. See Exhibit B, pp. 1-15. The spouse reported in the redetermination ██████ in medical expenses that the Claimant/spouse are responsible to pay. See Exhibit B, p. 4.

4. In the redetermination, the spouse reported the following income: \$ [REDACTED] in [REDACTED] for Claimant; [REDACTED] in [REDACTED] for [REDACTED] and [REDACTED] in [REDACTED]. See Exhibit B, p. 4.
5. On March 27, 2015, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that Claimant and his spouse's MA – G2S deductible would be [REDACTED] effective May 1, 2015, ongoing. See Exhibit A, pp. 6-7. However, Claimant's Eligibility Summary indicated that the G2S deductible decreased to [REDACTED] effective May 1, 2015, ongoing. See Exhibit B, p. 16. There was no indication that a subsequent determination notice was issued informing the Claimant of the decrease in the deductible amount.
6. On April 13, 2015, Claimant's spouse filed a hearing request, disputing their deductible. See Exhibit A, pp. 2-5.

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 matters

First, there was no indication that a subsequent determination notice was issued informing the Claimant/spouse of the change in their deductible amount. It's unclear when this change occurred, but the change appeared to occur before Claimant's hearing request on April 4, 2015. See Exhibit B, p. 16. Because Claimant's hearing request ultimately disputed the amount of their deductible effective May 1, 2015, this Administrative Law Judge (ALJ) will now address whether the Department properly calculated Claimant's MA – G2S deductible in the amount of [REDACTED] effective May 1, 2015, ongoing. See BAM 600 (January 2015 and April 2015), pp. 1-6.

Second, the Department only presented one budget to show how it calculated Claimant's MA deductible amount of [REDACTED] for May 1, 2015, ongoing. See Exhibit A, p.

12. However, the spouse also has a MA deductible amount of [REDACTED] for May 1, 2015, ongoing. See Exhibit B, p. 16. The Department testified that Claimant's budget represented the same for both the Claimant and spouse. Therefore, this ALJ reviewed the budget presented to determine if the Department properly calculated Claimant and his spouse's deductible amount as the calculations were the same for one another.

Third, on February 3, 2015, the spouse submitted a redetermination with several of the Claimant's medical bills. See Exhibit B, pp. 1-15. The Department testified that those medical bills could possibly qualify for future MA coverage and appeared to indicate the Department would recalculate the budget and/or process the submitted bills (i.e., eligibility based on old bill). See BEM 545 (January 2015), p. 9. (a group with excess income can delay deductible for one or more future months based on allowable old bills). However, this ALJ reviewed the entire evidence record after the hearing and determined that this ALJ lacks the jurisdiction to address the medical expenses as it is a processing issue (i.e., failure to process Claimant's submitted medical expenses). See BAM 600, pp. 1-6. Claimant's hearing request is based on whether the Department properly calculated the deductible amount. It is possible that processing the submitted medical expenses could result in the delay of the Claimant and/or the spouse's deductible. Nevertheless, Claimant can request another hearing to dispute the Department's failure to process the submitted medical expenses. See BAM 600, pp. 1-6.

MA – G2S deductible

In the present case, Claimant and his spouse both live together and reside in Wayne County. Therefore, Claimant and his spouse's fiscal group size is two. See BEM 211 (January 2015), p. 5. Moreover, the Department will consider Claimant and his spouse's total income when determining the calculation of their deductible. See BEM 211, pp. 5-6.

G2S is an 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 and his spouse's gross total unearned income to be [REDACTED]. See Exhibit A, p. 12. The Department indicated that the total unearned income comprised of the following: (i) \$491 for Claimant's pension; (ii) [REDACTED] for Claimant's Retirement, Survivors, and Disability Insurance (RSDI) income; and (iii) [REDACTED] for the spouse's RSDI income. See Exhibit A, pp. 9-11.

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. Finally, sick and accident insurance pay a flat-rate benefit due to illness or injury without regard to actual

charges or expenses incurred. BEM 503, p. 30. This does not include long term care facility insurance payments. BEM 503, p. 30. Examples include short or long term disability payments. BEM 503, p. 30. The Department counts the gross amount of these payments as unearned income. See BEM 503, p. 30.

In response, Claimant's spouse did not dispute the gross amount of income she and her husband (Claimant) receives. However, the spouse testified that the Claimant only receives a net amount of [REDACTED] in long term disability benefits (rather than a pension as the Department categorized it as). In fact, the spouse provided a letter dated May 8, 2015, which stated Claimant is presently receiving monthly disability checks for [REDACTED]. See Exhibit 1, p. 1. It was subsequently discovered that Claimant has federal withholdings of [REDACTED] taken from his disability checks, which results in a net payment amount of [REDACTED]. See Exhibit B, p. 7. The spouse provided proof of the Claimant's disability checks when she submitted the redetermination on February 3, 2015.

Based on the foregoing information and evidence, the Department properly calculated Claimant and his spouse's total gross unearned income to be \$[REDACTED]. See BEM 503, pp. 27-30. The Department then properly subtracted the [REDACTED] disregard to establish Claimant's total net unearned income of [REDACTED]. BEM 541 (January 2015), p. 3.

Next, the Department also properly deducted Claimant's \$104.90 in Medicare Part B premium, which resulted in a total countable income of \$2,980.10. See Exhibit A, p. 12 and see BEM 544 (July 2013), p. 1. It should be noted that the budget included an ongoing medical expenses deduction of zero. See Exhibit A, p. 12. A review of the evidence packet did not find any ongoing medical expenses submitted by the Claimant. Claimant's expenses were only one-time medical expenses.

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 two (Claimant and spouse) living in Wayne County is [REDACTED] per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$500, 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 and his spouse's countable income of [REDACTED] for MA purposes exceeds the monthly protected income level of \$500 by [REDACTED]. See Exhibit A, p. 12. Thus, the Department properly calculated Claimant and his spouse's MA – G2S deductible to be [REDACTED] effective May 1, 2015, ongoing, 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 acted in accordance with Department policy when it calculated Claimant and his spouse's MA deductible to be [REDACTED] effective May 1, 2015.

Accordingly, the Department's MA decision is AFFIRMED.



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

Date Signed: **6/3/2015**

Date Mailed: **6/3/2015**

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]