

**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.: 15-013833
Issue No.: 1001
Case No.: ██████████
Hearing Date: September 23, 2015
County: Wayne-District 76

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 September 23, 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, and Steven Reimer, Family Independence Specialist.

ISSUE

Did the Department properly determine Claimant was eligible for Medicaid, or Medical Assistance (MA), coverage subject to a monthly \$1220 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 MA recipient.
2. Claimant's child, with a June 5, 1997 birthdate, lives with Claimant.
3. Claimant reported receiving Retirement Survivors and Disability Insurance (RSDI) income under two case numbers, \$702.90 under one case number based on her disability and \$892.40 under the other case number based on her deceased husband's work history.

4. The Department realized that it had erred by failing to include both RSDI sources in calculating Claimant's MA eligibility and recalculated her MA eligibility to include all her income.
5. On June 10, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying her that she was not eligible from December 1, 2012 to January 31, 2013 because she was not under 21, pregnant or parent/caretaker relative of a dependent child. In comments from the specialist section of the Notice, the specialist informed Claimant that her two RSDI payments were now being budgeted and resulted in an income-copay for her MA coverage (Exhibit A).
6. On June 10, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her MA case.

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.

Claimant requested a hearing concerning her MA case. The June 10, 2015 Health Care Coverage Determination Notice was not clear with respect to the Department's actions concerning Claimant's MA case. The Notice notified Claimant that she was not eligible for December 1, 2012 to January 31, 2013 and that \$19,128 was used for determining her health care coverage. At the hearing, the Department explained that, although Claimant had timely reported her income and that she received two RSDI payments, the Department had failed to budget both RSDI sources. When it recalculated Claimant's MA eligibility using all of the household's unearned income, she became eligible for MA subject to a \$1220 deductible beginning July 1, 2015 (Exhibit D). The Department pointed out that the specialist's comments in the June 10, 2015 Notice informed Claimant that her two RSDI sources were now being budgeted and, as a result, she had an income-copay to her MA coverage. On July 21, 2015, the Department sent Claimant a Health Care Coverage Determination Notice that notified her of her \$1220 monthly

deductible for August 1, 2015 ongoing (Exhibit E). Based on the evidence presented, this Hearing Decision addresses whether the Department properly provided Claimant with MA subject to a \$1220 monthly deductible.

The Department testified that Claimant was the parent of a child, and its evidence showed that Claimant received MA under a Group 2 Caretaker (G2C) program (Exhibit D). For purposes of G2C eligibility, the client must be the caretaker relative of a child. BEM 135 (January 2015), p. 1. A child must be (i) under age 18 or (ii) age 18 and a full-time student in a high school or the equivalent level of vocational or technical training and expected to complete his educational or training program before age 19. BEM 135, p. 3. The evidence in this case showed that the youngest child in Claimant's care turned 18 on June 5, 2015 and had completed high school. Therefore, the Department did not act in accordance with Department policy when it provided Claimant MA coverage under the G2C program.

Claimant testified that she was disabled and received a portion of RSDI based on her disability. She also received Medicare. As a Medicare recipient, Claimant was not eligible for MA coverage under the Healthy Michigan Plan. 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>. However, as a disabled individual, she is eligible for MA under an SSI-related category. BEM 105 (October 2014), p. 1.

The type of SSI-related MA program a client is eligible for is based, in part, on the client's fiscal group's income. BEM 105, p. 1. In Claimant's case, Claimant is unmarried and, as such, is the sole member of her fiscal group. BEM 211 (January 2015), p. 5. In determining her net income for MA purposes, the Department begins by considering the gross monthly RSDI benefits and pension she receives. BEM 503 (July 2015), pp. 27, 28; BEM 530 (January 2014), p. 2. Although the SOLQ showed gross RSDI income totaling \$1566 (\$702.90 based on Claimant's disability and an additional \$864 monthly), Claimant confirmed at the hearing that she received gross RSDI benefits of \$702.90 based on her disability and gross RSDI benefits of \$892.40 based on her deceased husband's work history. The sum of this income, rounded down, is \$1595. BEM 556 (July 2013), p. 3. For purposes of SSI-related MA budgets, this unearned income is reduced by a \$20 disregard. BEM 541 (January 2015), p. 3. Claimant's gross income reduced by \$20 results in net income for MA purposes of \$1575.

Based on this net income, Claimant was not eligible for full-MA coverage under the AD-Care program. BEM 163 (July 2013), p. 2; RFT 242 (May 2015), p. 1. Clients who are ineligible for full-coverage MA coverage because of excess income are eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's shelter area and fiscal group size. BEM 105, p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Claimant's position, with an MA fiscal group size of one living in Wayne County, is \$375. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Claimant's monthly net income (less allowable needs deductions) is in excess of \$375, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$375. BEM 545 (January 2015), p. 2. Allowable need deductions are for health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544 (July 2013), pp. 1-3.

In this case, the budget presented by the Department does not show that the Department applied the \$20 disregard. Also, the evidence in this case showed that, as of May 1, 2015, the State no longer paid Claimant's Part B Medicare premium. Therefore, the \$104.90 premium, which was being deducted from Claimant's RSDI payments, should have been included as an allowable needs deduction, further reducing Claimant's net income. Because the Department did not consider the \$20 disregard and the \$104.90 insurance premium in calculating Claimant's MA deductible, the Department did not act in accordance with Department policy in calculating the deductible.

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 calculated Claimant's MA deductible for July 1, 2015 ongoing.

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. Recalculate Claimant's MA budget for July 1, 2015 ongoing;
2. Provide Claimant with MA coverage she is eligible to receive from July 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: **10/01/2015**

Date Mailed: **10/01/2015**

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]
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