

**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.: 15-017115
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: November 30, 2015
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Following Petitioner'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 November 30, 2015, from Detroit, Michigan. Petitioner appeared pro se. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Due to excess income, did the Department impose a \$ [REDACTED] deductible for the Medical Assistance (MA) program?

Did the Department properly activate MA coverage for April, 2015?

Did the Department properly classify Petitioner as a recipient of Emergency Services Only (ESO) 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. Petitioner received MA benefits.
2. In September, 2015, the Department found Petitioner eligible for MA benefits with a deductible of [REDACTED].

3. The Department agreed that MA coverage had not been activated for April, 2015 in error.
4. The Department agreed that Petitioner and members of Petitioner's MA group had been activated for Emergency Services Only (ESO) MA coverage in error for several months, and that category should be corrected.
5. On August 14, 2015, the Department sent Petitioner/Petitioner's Authorized Representative (AR) its deductible decision; this decision was later reduced to the current [REDACTED] deductible, though Petitioner still had a grievance with the deductible calculations.
6. On September 9, 2015, Petitioner/Petitioner's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

While the original deductible decision was later changed by the Department to the lower deductible decision in September, 2015, Petitioner was not satisfied with the change, and argues that his deductible was incorrectly calculated. As the Department action did not satisfy Petitioner's original grievance, the undersigned claims jurisdiction over the entire matter, for the sake of simplicity, including the later deductible decision made on September 18, 2015.

Furthermore, the Department admitted to several errors in the current matter.

First, the Department testified that MA coverage had not been activated for April, 2015, despite a request for activation, and this failure to activate coverage for that month was in error. As such, the undersigned holds that MA coverage must be activated for April, 2015.

Second, the Department testified that Petitioner and other members of Petitioner's MA group had been incorrectly activated for ESO MA during several coverage months. As

such, the undersigned holds that this ESO coverage status must be corrected to full MA benefits in order to correct the current grievance.

With regard to the MA deductible eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Petitioner is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105 pg. 1 (2014).

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545, pg. 1 (2015).

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166, pg. 2 (2013). The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544, pg. 1 (2013).

An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for 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 the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

However, the MA budgets and evidence did not include a statement of Petitioner’s earned and unearned income. As such, there is insufficient evidence to determine whether or not Petitioner’s income and MA deductible was budget correctly. Given the other mistakes in Petitioner’s MA benefit determination, there is a distinct possibility that Petitioner’s current deductible was incorrectly calculated. It is impossible to know for sure however, as no evidence of Petitioner’s current income was submitted. As such,

the undersigned believes that the best course is to reprocess the current case from the beginning.

The Administrative Law Judge, based upon 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 failed to activate MA coverage for April, 2015 and classified Petitioner as an ESO recipient. The Department has failed to provide sufficient evidence as to whether or not the deductible in question is correct.

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. Reprocess Petitioner's MA eligibility and recalculate Petitioner's MA deductible budget, retroactive to the date of action.
2. Activate MA coverage for Petitioner for the month of April, 2015.
3. Correct months that Petitioner is categorized for ESO coverage to full MA benefits.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/2/2015**

Date Mailed: **12/2/2015**

CG/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:

