

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018575
Issue No.: 2001; 2007
Agency Case No.: [REDACTED]
Hearing Date: December 10, 2015
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 10, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Medical Assistance (MA) deductible for August 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. Petitioner is an ongoing recipient of MA - Group 2 Spend-Down (G2S) benefits. See Exhibit A, p. 8.
2. On September 23, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner that her MA – G2S deductible would be \$668 effective August 1, 2015, ongoing. See Exhibit A, p. 5.
3. On September 29, 2015, Petitioner filed a hearing request, disputing her deductible. See Exhibit A, pp. 2-3.

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 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.

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, Petitioner testified that she also disputed her FAP benefits. However, Petitioner failed to indicate in her hearing request any dispute with her FAP allotment. See Exhibit A, pp. 2-3. As such, the undersigned lacks the jurisdiction to address Petitioner's dispute with her FAP benefits. See BAM 600 (April 2015 and October 2015), pp. 1-6.

Second, Petitioner presented a letter from the Social Security Administration (SSA) dated October 30, 2015, which indicated her Retirement, Survivors, and Disability Insurance (RSDI) payments would be reduced. See Exhibit 1, p. 1. Petitioner testified that she did not inform the Department of this reported change until around the date of the letter, which would have been late October 2015 or early November 2015. This change report would obviously affect her MA – G2S deductible because of the reduction in her income. However, Petitioner's reported change did not occur until after her hearing request. Therefore, the undersigned lacks the jurisdiction to address Petitioner's reported change in income because it occurred after her hearing request. Petitioner can request another hearing to dispute the Department's alleged failure to process her reported change in income. See BAM 600, pp. 1-6; BAM 105 (July 2015), pp. 10-11 (responsibility to report changes); and BAM 220 (October 2015), pp. 6-8 (change reports).

Third, Petitioner also testified that she submitted medical expenses to the Department in or around November of 2015. Again, though, this occurred after Petitioner's hearing request. Petitioner can request another hearing if she disputes the Department's failure

to process submitted medical expenses and/or failure to apply them as an allowable old bill. BEM 545 (October 2015), pp. 9 (A group with excess income can delay deductible for one or more future months based on allowable old bills).

MA deductible

In the present case, Petitioner's group size is one and she resides in Wayne County. The Department presented MA-G2S budget for the benefit period of August 2015. See Exhibit A, p. 9.

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 properly calculated Petitioner's gross total unearned income to be \$1,063, which she did not dispute for August 2015. See Exhibit A, p. 9 and BEM 503 (July 2015), p. 28 (the Department counts the gross benefit amount of RSDI as unearned income).

The Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$1,043. BEM 541 (January 2015), p. 3.

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 (July 2013), p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one 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, Petitioner's countable income of \$1,043 for MA purposes exceeds the monthly protected income level of \$375 by \$668. See Exhibit A, p. 9. Thus, the Department properly calculated Petitioner's MA – G2S deductible to be \$668 effective August 1, 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 acted in accordance with Department policy when it properly calculated Petitioner's MA – G2S deductible to be \$668 effective August 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: **12/10/2015**

Date Mailed: **12/10/2015**

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:



Tara Roland 82-17
Wayne-District 17 (Greenfield/Joy)
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