

**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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MAHS Reg. No.: 16-000292
Issue No.: 2001;3000
Agency Case No.: ██████████
Hearing Date: February 22, 2016
County: Wayne-District 18

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 22, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

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 was an ongoing recipient of FAP benefits.
2. Petitioner verbally withdrew her request for hearing concerning the FAP and indicated she was satisfied with the Department's actions.
3. Petitioner is an ongoing recipient of MA benefits.
4. Petitioner was previously approved for MA under the full coverage Ad-Care program.
5. In connection with a redetermination, Petitioner's continued eligibility for MA under the Ad-Care program was reviewed.

6. On July 15, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective August 1, 2015, ongoing, she was eligible for full coverage MA. (Exhibit A, p. 6)
7. On October 13, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that for the period of October 1, 2015, to October 31, 2015, she was eligible for full coverage MA and that effective November 1, 2015, she was eligible for MA with a monthly deductible of \$505. (Exhibit A, p. 7)
8. While the October 13, 2015, Health Care Coverage Determination Notice advised Petitioner that her MA coverage would be changing effective November 1, 2015, the eligibility summary provided by the Department indicates that Petitioner's MA coverage was transferred from Ad-Care to the Group 2 Aged, Blind and Disabled (G2S) program with a monthly deductible of \$505 effective August 1, 2015. (Exhibit B)
9. On January 8, 2016, Petitioner requested a hearing disputing 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), 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.

The hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP benefits. Shortly after commencement of the hearing, Petitioner testified that she understands and is satisfied with the Department's actions concerning FAP benefits and that she did not wish to proceed with the hearing concerning FAP. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing with respect to FAP is, hereby, **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.

Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner raised concerns regarding the transfer of her MA coverage from Ad-Care to G2S with a \$505 monthly deductible effective November 1, 2015.

Petitioner, who receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (October 2014), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2013), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2.

At the hearing, the Department testified that due to an increase in RSDI income that had not been previously budgeted, Petitioner was no longer eligible for MA under the Ad-Care program because her income exceeded the limit. Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (January 2015), p. 5. Effective April 2015, a MA fiscal group with a single member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$980.83, which is 100 percent of the Federal Poverty Level. RFT 242 (May 2015), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p.2. The Department presented a SSI Related MA Income Results Budget in support of its assertion that Petitioner was ineligible for MA under the Ad-Care program which reflected an incorrect income limit of \$973 and Petitioner's income prior to the RSDI increase. (Exhibit A, p. 29). However, the budget and additional evidence were reviewed during the hearing to determine if Petitioner's correct income was in excess of the correct income limit of \$980.83. The Department testified that Petitioner had gross unearned income from RSDI in the amount of \$1005. A SOLQ was provided in support of the Department's

testimony and Petitioner confirmed that the amount was correct. (Exhibit A, pp. 3-5). The Department properly deducted the \$20 disregard and determined that Petitioner's net income was \$985. Therefore, because Petitioner's countable income exceeds the \$980.83 net income limit for the Ad Care program, the Department acted in accordance with Department policy when it terminated Petitioner's MA benefits under the Ad Care program.

Additionally, 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. BEM 545 (October 2015), p 10. 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), pp. 1-2; BEM 166 (July 2013), pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one (Petitioner) living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p 1.

At the hearing, the Department produced a SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit A, p. 2). The Department testified that in calculating Petitioner's unearned income, it considered \$1005 in gross monthly RSDI benefits, which as discussed above was properly calculated. The Department properly subtracted the \$20 unearned income general exclusion and determined that Petitioner's total countable income for MA purposes was \$880.10, as at the time the budget was compiled, the Department had excluded \$104.90 in insurance premiums, which may no longer currently be applicable. There was no evidence presented that Petitioner was entitled to any other deductions to income. BEM 530 (January 2014), pp 1-4; BEM 541 (January 2015), pp.2-3.

Because Petitioner's countable income of \$880.10 for MA purposes exceeds the monthly protected income level of \$375 by \$505, the Department properly calculated Petitioner's monthly \$505 MA deductible in accordance with Department policy.

Petitioner raised additional concerns at the hearing regarding a lapse in full coverage MA benefits. Petitioner stated that despite being notified by the Department that she had full coverage MA benefits for the period of August 1, 2015, ongoing, she received medical bills and information from her providers that she did not have any MA coverage for the months of August 2015, ongoing.

The evidence presented at the hearing established that after processing Petitioner's redetermination, the Department sent Petitioner a Health Care Coverage Determination Notice dated July 15, 2015, advising her that for the period of August 1, 2015, ongoing, she continued to be eligible for full coverage MA benefits. (Exhibit A, p.6). There was no

evidence that the Department sent Petitioner any other notices regarding her eligibility for MA until October 13, 2015, at which time Petitioner was notified that her MA coverage would be transferred to a deductible based MA program effective November 1, 2015. (Exhibit A, p. 7).

While the Department notified Petitioner that she had full coverage MA for the period of August 1, 2015, ongoing, and that her MA coverage would be changing to a deductible based MA program effective November 1, 2015, a review of the eligibility summary provided indicates that Petitioner's MA coverage was actually transferred from Ad-Care to the G2S program with a monthly deductible of \$505 effective August 1, 2015, which provides an explanation as to why Petitioner received bills from her medical providers. (Exhibit B). This action was certified by the Department on July 15, 2015, however, the Department failed to send Petitioner an appropriate and adequate negative action notice advising Petitioner of her MA eligibility under the G2S program with a monthly deductible effective August 1, 2015. BAM 220 (October 2015), pp. 2-4.

Therefore, based on the conflicting documentation presented at the hearing, the Department failed to establish that it properly processed Petitioner's MA eligibility for the period of August 1, 2015, to October 31, 2015, and thus, Petitioner's MA eligibility for this period should be reviewed. Should the Department determine that Petitioner is eligible for a deductible based MA program effective August 1, 2015, the Department shall notify Petitioner of such eligibility and process any unpaid medical expenses submitted by Petitioner in accordance with Department policies. See BEM 545.

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 that Petitioner had excess income for the Ad-Care program and calculated her monthly deductible for the period of November 1, 2015, ongoing, but did not act in accordance with Department policy when it processed Petitioner's MA benefits for the period of August 1, 2015, to October 31, 2015.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA 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. Redetermine Petitioner's MA eligibility for the period of August 1, 2015, to October 31, 2015,

2. Provide Petitioner with MA coverage that she was eligible to receive, if any, for the period of August 1, 2015, to October 31, 2015, in accordance with Department policies; and
3. Notify Petitioner in writing of its decision regarding her MA eligibility for the period of August 1, 2015, to October 31, 2015.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **3/3/2016**

Date Mailed: **3/3/2016**

ZB / 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:

Device Type	Percentage of Respondents
Smartphone	88%
Tablet	72%
Smartwatch	45%
Smart TV	38%
Smart Home Hub	32%
Smart Car	28%
Smart Thermostat	22%
Smart Light Bulb	18%
Smart Doorbell	15%
Smart Lock	12%