

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

IN THE MATTER OF:

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Reg. No.: 2013 39145
Issue No.: 2019
Case No.: ██████████
Hearing Date: July 11, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Attorney, ██████████ko. The Claimant did not appear. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payments Worker, ██████████ Assistance Payments Worker, and ██████████ Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate the Patient Pay amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was admitted to a long-term care ("LTC") facility in December 2012 with no definitive discharge date.
2. In December 2012 the Department received the Claimant's application for public assistance seeking Medical Assistance ("MA") benefits.
3. On February 21, 2013 the Department issued a Notice of Case action which approved Medicaid benefits for January 2013 through March 31, 2013 with a patient pay amount of \$2077. Group 2 Aged Blind and Disabled Medicaid benefits were approved for April 2013 with a patient pay amount of \$2077 ongoing. Exhibit 5 and 6

4. The Claimant receives \$1,480 a month in gross disability benefits RSDI from the Social Security Administration.
5. The Claimant receives a pension in the amount of \$397.
6. The Claimant receives a monthly annuity of \$260.51.
7. The Claimant's net unearned income is \$2137 and countable income was \$2112 after a COLA deduction of \$25. Exhibit 3
8. The Department did not deduct the Community Spouse allowance amount when computing the patient pay amount in January, February, March and April 2013. Exhibit 10.
9. The Department correctly calculated the Community Spouse allowance for January and February 2013 and included a shelter standard and the Claimant's spouse income of \$435 for each month.
10. The Department's determination as of April 2013 of a Patient Pay amount of \$2077 is incorrect as no community spouse allowance was deducted. Exhibit 10.
11. The Department received notice on February 21, 2013 that the Claimant's spouse's employment ended in February 22, 2013 and must recalculate the patient pay amount for March ongoing to remove Claimant's spouse's earned income when calculating the Community Spouse allowance.
12. The Claimant's attorney conceded that the Community Spouse allowance as calculated for January and February 2013 in the amount of \$1488 is correct.
13. On March 29, 2013, the Department received the Claimant's Request for Hearing protesting Department's determination of his patient pay amounts. (Exhibit 29)

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence

Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Additionally, the Claimant has requested a hearing to correct the Department's determination of the patient pay amount. The patient pay amount is the amount of the required contribution to be made by the Claimant when in a long term care facility. BEM 546.

In this case the evidence presented by the Department disclosed that the Department did not follow the required calculations which are mandated by Department policy found in BEM 546 which provides:

The post-eligibility patient-pay amount is total income minus total need.

Total income is the client's countable unearned income plus his remaining earned income; see Countable Income in this item.

Total need is the sum of the following when allowed by later sections of this item:

Patient allowance.

Home maintenance disregard.

Community spouse income allowance.

Family allowance.

Children's allowance.

Health insurance premiums.

Guardianship/conservator expenses. BEM 546, pp. 1(7/1/13)

In this case a review of the calculations performed by the Department indicate that the Department did not include the Community Spouse Allowance as part of the need deductions required by Department policy.

The Department's error requires that the patient pay amount be recalculated to correct the patient pay amount. The Department also did not demonstrate by its proofs presented at the hearing whether the Community Spouse allowance was calculated for March 2013 and April 2013 ongoing to account for the fact that the Claimant's spouse was not longer working and earning \$435 per month. The ending of employment was timely reported by the Claimant's spouse on February 21, 2013 and it is determined that it cannot be determined if the adjustment was made to reflect the ending of employment when calculating the Community Spouse allowance which would then also affect the patient pay amount.

Based upon the Findings of Fact, and the evidence admitted at the hearing, it is determined that the Department did not correctly calculate the patient pay amount from January 2013 ongoing as it did not deduct the Community Spouse allowance from the Claimant's net income. Also the Department did not demonstrate whether it adjusted

the Community Spouse Allowance after receiving notification that Claimant's spouse's employment ended from the month's of March 2013 and April 2013 ongoing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when .

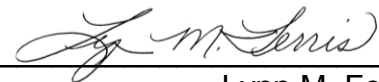
did not act properly when it calculated the Community Spouse allowance for March 2013 ongoing as the Claimant's spouse earned income from employment ended in February, 2013 and;

The Department did not act properly when it failed to deduct the Community Spouse allowance from the Claimant's net income when calculating the patient pay amount beginning January 2013 ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department must recalculate the patient pay amount beginning January 2013 ongoing to deduct the Community Spouse allowance.
2. The Department shall recalculate the Community Spouse allowance beginning March 2013 ongoing to remove the earned income amount of \$435 as the Claimant's spouse was no longer working.
3. The Department shall provide notice of the recalculated patient pay amount to the Claimant and Claimant's attorney.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 1, 2013

Date Mailed: August 1, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or

reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

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