

**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.: 2013-66793
Issue No.: 2019
Case No.: ██████████
Hearing Date: October 28, 2013
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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. After due notice, a telephone hearing was held on October 28, 2013, from Detroit, Michigan. Claimant was not present. Claimant's wife, ██████████, appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's 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. Claimant was an ongoing recipient of MA.
2. On August 27, 2013, the Department sent Claimant a Notice of Case Action, notifying him that his MA patient pay amount had increased to ██████████ (Exhibit 1, pp.11-15)
3. On August 28, 2013, Claimant filed a hearing request, disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, a patient pay amount is the client's share of the cost of long term care or hospital services. BEM 546 (July 2013), p. 1. The patient pay amount is total income minus total need. Total income is the client's countable unearned income plus his remaining earned income and total need is the sum of the following when allowed: patient allowance, home maintenance disregard, community spouse income allowance, family allowance, children's allowance, health insurance premiums and guardianship/conservator expenses. BEM 546, p. 1.

A patient in a long term care facility can divert income to meet the needs of the community spouse. The community spouse income allowance is the maximum amount that can be diverted. In determining the community spouse income allowance, the Department will apply the five step formula referenced in BEM 546. Specifically, the Department will take into account shelter expenses and countable income, among other things. BEM 546, pp.4-6. Because the community spouse income allowance is used to calculate total need discussed above, it will impact the patient pay amount.

In this case, Claimant requested a hearing to dispute the Department's calculation of her husband's patient pay amount. At the hearing, the Department testified that after Claimant's case was transferred to its office, it realized that there were certain errors in the calculation of Claimant's patient pay amount. The Department acknowledged that in determining Claimant's patient pay amount, it did not properly calculate the community spouse income allowance, as it failed to consider Claimant's wife's shelter expenses and loss of employment. Therefore, the Department did not properly calculate Claimant's patient pay amount.

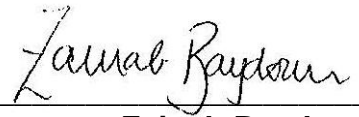
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Claimant's patient pay amount.

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 patient pay amount, taking into account Claimant's wife's shelter expenses and loss of employment.
2. Issue supplements to Claimant and his MA providers for any MA benefits that he was entitled to receive but did not; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 30, 2013

Date Mailed: October 30, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

2013-66793/ZB

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 48909-07322

ZB/tm

cc|

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