

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67020
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: December 3, 2013
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 3, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Case Worker.

ISSUE

Did the Department properly determine the Claimant's Medicaid 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 is an ongoing recipient of Medicaid benefits.
2. The Department determined that the Claimant has a monthly patient pay amount of \$917.
3. On August 24, 2013, a Notice of Case Action was issued to the Claimant.
4. On August 30, 2013, the Claimant filed a request for hearing contesting the Department's determination.

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, an L/H patient is a Medicaid client who was in the hospital and/or long term care facility (LTC) in a hospital and/or long term care facility (L/H) month. Bridges Policy Glossary.

A post-eligibility patient -pay amount is the L/H patient's share of the cost of LTC or hospital services. 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. Total need is the sum of the following when allowed by later sections of this item: (1) patient allowance; (2) home maintenance disregard; (3) community spouse income allowance; (4) family allowance; (5) children's allowance; (6) health insurance premiums; (7) guardianship/conservator expenses. BEM 546.

Social Security RSDI benefits are countable income. The Department counts the gross benefit amount as unearned income. BEM 503 and 546. Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Gross income includes amounts withheld from income which are any of the following: voluntary; to repay a debt; to meet a legal obligation. Listed examples of amounts which may be withheld but are still considered part of gross income include garnishments and court-ordered or voluntary child support payments. BEM 500.

The patient allowance for clients who are in, or are expected to be in, LTC and/or a hospital the entire L/H month is \$60. BEM 546

Regarding the Children's allowance, the policy states L/H patients without a community spouse can divert income to their unmarried children at home who: (1) are under age 18 and (2) do not receive FIP or SSI. The amount diverted is called the children's allowance. It is the children's protected income level from RFT 240 minus their net income. Net income is: (1) 80 percent of countable earned income per RFT 295, plus (2) countable unearned income. Do not divert income if information concerning the children's income is not provided. BEM 546

The Department determined that the Claimant only qualified for the patient allowance expense. The patient pay allowance was based on the Claimant residing in a nursing home. Utilizing the unearned income of \$ [REDACTED] and the \$ [REDACTED] patient allowance, the Department calculated that the Claimant's patient pay amount is \$ [REDACTED] (Exhibit 1)

The Claimant explained that his only income is the social security benefit and he does not have \$ [REDACTED] left after an automatic deduction is taken for child support. The Claimant

testified that the child support is taken out of his social security benefit before he receives the remaining benefit each month. The Caseworker confirmed that the Department shows \$ [REDACTED] is taken out for child support arrearages, but testified the policy does not allow for this to be considered in determining the patient pay amount.

The Claimant also stated that the VA sent him a letter stating he owes them and starting this month, December 2013, the VA is also taking a portion of his social security benefit each month before he receives the remaining benefit. The Claimant noted it is hard to pay what he is not receiving. The remaining social security benefit the Claimant receives is less than the \$ [REDACTED] monthly patient pay amount, and this is the Claimant's only income. The Claimant stated that if he had it he would pay it.

The above cited BEM 500 policy specifies that gross income includes amounts withheld from income to repay a debt or to meet a legal obligation. The examples listed in the policy included garnishments and court-ordered child support payments. BEM 500. Accordingly, the Department properly utilized the gross amount of the Claimant's social Security benefit before the child support arrearages are taken out to calculate the Claimant's patient pay amount. Further, there was no evidence to establish that the Claimant's children are under 18 and do not receive FIP or SSI to consider a children's allowance. The above cited BEM 546 policy directs that income is not to be diverted if information concerning the children's income is not provided. The evidence presented establishes that the Claimant qualifies for the patient allowance, does not establish that the Claimant qualifies for any of the other allowances, expenses or disregards the BEM 546 policy considers in determining total need to calculate the 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 acted in accordance with Department policy when it determined the Claimant's Medicaid patient pay amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 18, 2013

Date Mailed: December 19, 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.

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

CL/hj

cc:

